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ABSTRACT

This document presents the transcript of a congressional hearing held before a Senate subcommittee concerning reporting requirements of the Student Right to Know and Campus Security Act of 1990. Among issues addressed is whether the definition of "campus" includes buildings used partially or completely for commercial purposes, sidewalks, and hospitals, and whether hate crimes should be included in reporting requirements. Emphasis is on a current case involving the University of Pennsylvania. Following an opening statement by Senator Arlen Specter, the report includes the texts of oral statements and prepared statements by the following individuals or organizations: Howard Clery, founder of Security on Campus, Inc.; Jacob McKee, a student; Barbara Prentice, a parent; Stanley Ikenberry, president of the American Council on Education; Michele Goldfarb, administrator at the University of Pennsylvania; Peter C. Erichsen, vice president and general counsel at the University of Pennsylvania; Dolores A. Stafford, director of the university police department at George Washington University (District of Columbia); the International Association of Campus Law Enforcement Administrators; David A. Longanecker, Assistant Secretary for Postsecondary Education, U.S. Department of Education; and Robert C. Torricelli, U.S. Senator. (DB)

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S. HRG. 105–607

SECURITY ON CAMPUS

ED 424 828

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SPECIAL HEARING

Printed for the use of the Committee on Appropriations

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SECURITY ON CAMPUS

THURSDAY, MARCH 5, 1998

U.S. SENATE,
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 3:25 p.m., in room SD–192, Dirksen Senate Office Building, Hon. Arlen Specter (chairman) presiding.

Present: Senators Specter and Faircloth.

Also present: Senator Torricelli.

NONDEPARTMENTAL WITNESSES

OPENING REMARKS OF SENATOR SPECTER

Senator SPECTER. On this subject there is substantial concern as to the definition of the Department of Education on what constitutes a campus. The Department has made an inquiry at the University of Pennsylvania. Apparently commercial property in buildings or some parts of buildings, which are used for commercial purposes, where other parts are used for educational purposes, does not constitute the campus.

Although not binding on the Department of Education, there is a Pennsylvania Superior Court case, *Commonwealth* v. *Mitchell*, which defined campus on other issues as not being limited to educational or research grounds, but also including commercial property that the college or university used for investment purposes.

The statistics as to the University of Pennsylvania, which we are taking a look at, do not include, as I understand the facts—and we are going to have a representative from the university here—the sidewalks, and the hospital of the university was not included.

The President of the University of Pennsylvania, Dr. Roden, is quoted in the newspaper, I believe in her report to the Department of Education as well, that there was no finding of evidence that the university was hiding anything or distorting campus crime. That is the outstanding question in light of the limitations on the university's report.

There is considerable pressure at this time for expanding the statutes which relate to campus reporting to go against these disciplinary files and other files which could raise very material questions on privacy.

I believe that at a minimum, Mr. Secretary, the Department is going to have to take a much closer look at the statutory requirements and find a way to get compliance, or there is likely to be a

rash of additional legislation imposing penalties on universities and going much further. There is legislation pending in the House which goes a great deal further.

So, I would invite your close attention to what this hearing will disclose, and you do have your Assistant Secretary, Mr. David Longanecker, here for the purpose of this facet of the hearing.

Senator Torricelli had asked for some time to testify, and we will reserve his time.

Let me now call all in one panel so that we can try to proceed with some dispatch here. Mr. Howard Clery, Mr. Jacob McKee——

Senator FAIRCLOTH. Mr. Chairman, I had one quick question of the Secretary.

Senator SPECTER. OK.

Senator FAIRCLOTH. And it will not take but a second to ask it.

What is the Department's policy regarding the use of Pell grants and other Federal grants and loans for the purchase of books and other educational material at bookstores which are not associated with the college or university?

Secretary RILEY. David, do you want to respond to that? That is a higher education issue. I am going to ask Dr. Longanecker to respond. He is head of higher education. Are you familiar with that?

Mr. LONGANECKER. Senator, sure. Pell grants are provided based on the ability of the family to pay and predicated on the costs. The students can use the resources that they receive to purchase the services that they need whether they are on campus or off campus.

Senator FAIRCLOTH. They can buy off campus with Pell grant——

Mr. LONGANECKER. Absolutely.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

Senator SPECTER. Thank you.

Secretary RILEY. Mr. Chairman, Dr. Longanecker indicated to me that he would respond to your question or your statement in his statement. If I might be excused. I certainly enjoyed spending the afternoon with you.

Senator SPECTER. All right. Thank you, Mr. Secretary. That will be fine.

STATEMENT OF HOWARD CLERY, FOUNDER, SECURITY ON CAMPUS, INC.

Senator SPECTER. I call on Mr. Howard Clery, Mr. Jacob McKee, Ms. Barbara Prentice, Mr. Stanley Ikenberry, Ms. Michele Goldfarb, Ms. Dolores Stafford, and Mr. David Longanecker.

I am going to have the timer set here at 3 minutes because we need to conclude by 4 o'clock if we possibly can because, as I said earlier, the Governmental Affairs Committee is meeting.

Mr. Clery is the cofounder, along with Mrs. Connie Clery, of Security on Campus, an organization which is dedicated to improving security on campus. Security on Campus was founded after the tragic murder of their daughter Jeanne, who was a freshman at Lehigh University, in 1986 and who was brutally raped and murdered while in a dormitory at Lehigh by another Lehigh student, a truly, tragic, tragic incident.

Mr. Clery, the floor is yours, sir.

Mr. CLERY. Thank you very much, Senator.

We want to thank you very much for your support in passage of the Campus Security Act of 1990 which you not only sponsored but introduced on the Senate floor the day after five students were massacred at the University of Florida in Gainesville. Because of this action, campus crime and student safety has been improved on many residential campuses.

However, far too many institutions are not in compliance with the letter or spirit of the law. The Department of Education has investigated five universities in 1997 and all five institutions have been found in major noncompliance with the Federal Security Act of 1990. We have attached an addendum to our report that briefly summarizes those findings.

A common sense review of individual campus crime statistics reported annually by the Chronicles of Higher Education show gross underreporting of student violations of Federal drug laws and State underage alcohol laws. Many campus research reports reveal recent illegal drug use by students ranging from 14 to 20 percent of the campus population, and the result is a rising death toll from alcohol poisoning. Rape and sexual assault crimes are substantially underreported by many schools as they run them through the judiciary committee, and the adjudication and findings of those hearings never appear in the campus statistical reports. The reasons for noninclusion are bogus claims of confidentiality which even extend to annual campus crime reports.

We would strongly recommend to this committee the campus crime reporting and disclosure provisions of the Higher Education Act of 1965 be amended to include substantial fines to be levied by the Department of Education on colleges and universities found in meaningful noncompliance with the Federal Campus Security Act of 1990.

We would also like to propose that every student who applies for a federally financed or a guaranteed loan submit an annual or at least a preliminary drug test. Looking at recent reports yesterday in the New York Times, they said that there were 5 million students on the loan program, and if you used any sort of percentages, you might come up with a feeling that 500,000 to 1 million students who are being financed by Federal loan program are drug users. Student athletes have to take drug tests. Why not people who are using Federal funds?

I think we should recognize that every organization is a mirror of the people who are an integral part of it. Our universities are no exception. Many parents and legislators do not know that 80 percent of campus crimes are committed by students on students, and campus crime is being fueled by student binge drinking, use of illegal drugs, unlawful fraternity hazing, and the increasing presence of firearms and gang activity. A new campus business, by the way, is now gambling.

All of the above aberrations are present in some of our high schools or many of them, but university admissions officers ignore the world around them. They rarely inquire or require the following from perspective students who are applying to their institutions. They ought to ask these questions.

Have you been arrested and convicted of a crime?

Have you been registered as a gang member by your local police?

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Do you own a registered firearm and where will it be housed?

Have you included a drug test as part of your required medical exam prior to admission?

PREPARED STATEMENT

So, I would like to summarize for the fact that a lot still remains to be done to make this legislation that you sponsored a reality and the campuses become safe places and places of learning and not crime.

Senator SPECTER. Thank you very much, Mr. Clery, and thank you for all the work that you and Mrs. Clery have done on this important subject.

[The statement follows:]

PREPARED STATEMENT OF CONNIE AND HOWARD CLERY

Senator Spector, the Student Right to Know and Campus Security Act of 1990, which you sponsored and introduced on the Senate Floor the day after 5 students were massacred at the University of Florida in Gainsville, has substantially increased student safety and security on many residential college campuses.

However, far too many institutions are not in compliance with the letter or spirit of the law. The Department of Education has investigated 5 universities during 1997 and all five institutions have been found in major non-compliance with the Federal Campus Security Act of 1990. Please see the attached addendum.

A common sense review of individual campus crime statistics, reported annually by the Chronicle of Higher Education, show gross under-reporting of student violations of Federal Drug Laws and State Underage Alcohol laws. Many campus research reports reveal recent "illegal drug use by students ranging from 14–20 percent of the campus population, while the new phenomenon of binge drinking is hovering between 40–50 percent of campus populations and the result is a rising death toll from alcohol poisoning". Rape and Sexual Assault crimes are substantially underreported by many schools as they do not include results of Judiciary Committee adjudication or findings of Campus Rape Crisis Centers. The reasons for non-inclusion are bogus claims of confidentiality which even extend to the annual campus crime statistics.

We would strongly recommend the Campus Crime Reporting and Disclosure provisions of the Higher Education Act of 1965 be amended to include the following:

—Require annual campus statistical disclosure of liquor law and drug violations determined by Campus Security and Administrators, not just arrests.

—Require annual drug tests from students applying for and receiving Federally Guaranteed Student Loans.

—Require the names of individuals arrested and charged by Campus Security and Administrators to be entered and disclosed in "Campus Crime Logs".

—Remove F.E.R.P.A confidentiality protections for students found guilty of violating campus rules of conduct which correspond to violations of State and Federal Laws. Victims' confidentiality should be maintained in accordance with state laws. Two State and two Federal Courts have ruled F.E.R.P.A Confidentiality of Students found guilty of actions violating State and Federal Laws are not Educational Records.

—Require Campus Police or Security logs be disclosed within 24 hours for Campuses with Residential Housing.

—Campus crime statistics must include rapes and sexual assaults reported to and confirmed by Campus Administrators, Athletic Coaches, Judicial Committees and Rape Crisis Centers. (The reporting of these statistics does not violate Professional-Patient Confidentiality Regulations).

Example: According to the Dartmouth College Student Newspaper, the college reports 4–6 rapes annually but there are 40–50 students in counseling at the Rape Crisis Center.

—Consumer rights dictate that campus crime statistics give a realistic picture of campus crime and relative student safety.

—The Department of Education should be empowered to levy fines on Universities found not in compliance with the provisions of the Campus Security Act.

Campus Boundaries should include:

—Municipal streets and sidewalks bisecting the campus.

—Stores and enterprises leased by the school to private businesses to provide student services, i.e., book stores, eating establishments, etc.
—Fraternity and sororities located just "off campus".
—Areas adjacent to campus containing large numbers of students in private housing. Many state universities have 50–80 percent of their "residential students" living a "few blocks" from campus. (A separate statistical column can be added to the annual crime report.)
—Streets "adjacent" to campus, but which are patrolled by Campus Police or Security.

Every organization is a mirror of the people who are an integral part of it. Our universities are no exception. Many parents and legislators do not know that 80 percent of campus crimes are committed by students on students. Campus crime is being fueled by student binge drinking, use of illegal drugs, unlawful fraternity hazing and the increasing presence of firearms and gang activity, i.e., gambling, drugs, prostitution.

University Admissions' and Deans' offices are well aware of the National Studies revealing:

—50–60 percent of male students indulge in binge drinking.
—30–40 percent of female students indulge in binge drinking.
—15–20 percent of students are recent users of illegal drugs.
—Sexual Assault and Rape are major campus problems.
—Student physical violence is growing.
—Student illegal gambling is "a new campus business".

All of the above aberrations are also present in our high schools. But, university admission officers ignore the world around them. They rarely inquire or require the following from prospective students:

—Have you been arrested and convicted of a crime?
—Have you been registered as a gang member by your local police?
—Do you own a firearm? Where will it be housed?
—Have you included a drug test as part of your required medical exam prior to admission?

Deans and student affairs personnel too often believe student crimes are educational opportunities instead of punishment opportunities. This mind set can lead to increased campus crime and student victims. It also tends to obscure the inherent institutional responsibility to ensure a safe campus environment and, therefore, reduced civil suits by victims. Campus safety is enhanced by suspension and separation of students found guilty of campus judicial hearings for violators of State and Federal laws. Sadly, many student crime victims transfer to other campuses because the student perpetrators remain on campus with minimal punishment and their names and violations held "Confidential" by false interpretations of Federal Law by the U.S. Department of Education.

Deans and student affairs personnel must take proactive security measures to ensure student safety in dormitories, fraternities and sororities. This would require regular campus police and security patrols of campus student housing to reduce:

—Binge and underage drinking.
—Sale and use of illegal drugs.
—Possession of illegal firearms and gambling.
—The number of unauthorized persons.

(A number of campus police departments are now using undercover personnel as a supplement to regular patrols and the results are encouraging).

The above recommendations may shock some people, but they are normal procedures used in our towns and cities, our hospitals and public institutions, our businesses and military services. It should be remembered that our University Campuses are high-crime communities. This reality is obscured by massive falsifications of annual crime statistics required by Federal Law!

This current academic year has seen an alarming increase in student deaths from alcohol poisoning due to binge drinking. (In November 1997 alone, 5 students have died of alcohol poisoning in the state of Virginia.) A few years ago, Police Chief Reuben Greenberg of Charleston, South Carolina wrote: "With few exceptions other than the drug traffickers themselves, administrators of our nation's universities are the most hostile elements to the enforcement of our nation's drug laws". Most local police departments continue to hold the same views about the campuses located in their communities.

Many protected members of academia will mindlessly shout "Police State". Many students, faculty and staff will exclaim "It's about Time". Most parents will say "Thank God"!

ADDENDUM—CAMPUS SECURITY ACT PROGRAM REVIEW SUMMARY [FEBRUARY 1998]

The following five schools have been found in non-compliance with the Federal Campus Security Act of 1990:

(1) Moorhead State University (Minnesota)

Found in violation, September 13, 1996

—Crime Statistics Not Accurately Disclosed in annual security reports.
—Timely Warnings were not issued.
—Security Report Information Not Made Available to Students and Employees.
—Deficiencies in information contained in the annual campus security reports (statements of policy omitted or incomplete; statements of policy inaccurate).

The Chicago Regional Office of the DOE issued the "Final Program Review" letter on June 30, 1997 referring this case to the Washington, DC office for administrative (i.e. possible fine) action. Further information can be found on our Web Site. The original complaint was filed by Margaret Jakobson in 1995.

(2) Virginia Tech (Virginia Polytechnic Institute and State University)

Found in violation, June 19, 1997

—Crime Statistics Not Accurately Compiled for annual security reports.
—Crime Statistics Not Accurately Disclosed in annual security reports.
—Statements of Policy Omitted/Incomplete (procedures to follow if a sex offense occurs; procedures for campus disciplinary actions in alleged sex offense cases; sanctions the institution may impose following a disciplinary hearing).

This report was issued by the Philadelphia Regional Office of the DOE following complaints filed by Eileen Wagner and SOC in August of 1996 on the behalf of campus rape survivor Christy Brzonkala. Her rapes by two football players were not properly included in the statistics. No further action is expected based on this complaint.

(3) Miami University of Ohio

Found in violation, September 11, 1997

—Crime incidents from all sources not reported.
—Crime statistics not calculated correctly from Miami University police records.
—All university properties not included.
—Inconsistent data.
—Crime statistics from branch campuses misreported.
—Failure to follow Campus Security Act Regulations Regarding Notification of Disciplinary Action.

Ohio Supreme Court ordered the school to grant access to UDB records; DOE says ruling that F.E.R.P.A. does not cover these records is wrong "as a matter of law." This investigation resulted from a formal complaint filed in January of 1997 by S. Daniel Carter and MUOH graduate Jennifer Markiewicz who uncovered inaccuracies in reporting while editor of the student newspaper. The Program Review Report was issued on September 11, 1997.

(4) Clemson University

Found in violation, July 18, 1998

—Crime Statistics Not/Improperly Reported (sex offenses improperly reported; hate crimes not reported; only reported 1½ years worth of data, not 3 years; statistics inconsistently reported; Statistics Do Not Match Institutional Records).
—Drug/Alcohol Policy Not Included in the Campus Security Report.
—Timely Warning Procedure Inadequately Developed.
—Sexual Assault Policy Inadequate/Underdeveloped.
—Crime Statistics Not/Inaccurately Gathered (Statistics Are Gathered From Police Reports Only).

This case was brought about through the initial complaint filed with the Atlanta office in February of 1997 by the survivor of a campus "gang-rape." The "Equal Rights Alliance" filed an amicus complaint on May 4th.

(5) The University of Pennsylvania

Found in violation, February 1998

—Hate Crime Statistics Not Included In Campus Security Report.
—Failure to Report Specific Incidents (1,994 rape; 1,006 liquor law violations)
—Failure to Complete Separate Statistics for Separate Campuses.
—Failure to Include Statistics For All Campus Locations (campus hospital).

—Failure To Notify All Prospective Students and Parents of the Availability of the Campus Security Report.
—Failure To Provide Campus Security Report to All Current Students.

This case was initiated in December, 1996 by the Philadelphia Office of U.S. Dept. of Education based on a November 25, 1996 article in The Philadelphia Inquirer regarding crime reporting. An in-depth complaint was filed on June 11, 1997 by the Equal Rights Alliance and Security On Campus, Inc.

STATEMENT OF JACOB McKEE, STUDENT, LEHIGH UNIVERSITY

Senator SPECTER. I turn now to Mr. Jacob McKee, a second-year engineering student at Lehigh. He has many academic honors in advanced biology, calculus, and economics. He is also active in sports, hockey, baseball. Thank you for joining us, Mr. McKee, and the floor is yours.

Mr. MCKEE. Thank you, Senator.

I believe what you mostly want to know is how colleges deal with crime on their campuses, so I will tell my story and what I have experienced with regard to college security.

About 3 weeks into the fall semester of 1997, I was assaulted by Jason McNutt, a fourth-year student at Lehigh University. It was my first semester of college and college life and my first time living away from home. I received a punch to my left eye while I was not looking and it cracked the orbital bone of my eye, which led to double vision and loss of feeling in my face.

Since the attack, I have had more than 20 doctor's visits and two serious operations on my eye. In both of these operations, I ran the risk of total loss of vision in my left eye.

Well, from my experiences, this is what I could tell to help this hearing. Throughout the entire process, I believe that Lehigh University and its fully certified on-campus police program treated me and the criminal similarly. In many respects I feel he has been given more preferential treatment than I. Throughout the entire incident, Lehigh University's position seemed to be one of down playing the situation. They simply wanted to minimize severity of the situation and move on and away from it. The university attempted to do this in several different ways.

They actually down played the incident to me. They did this by trying to make me believe that it was merely a simple scuffle. They also led me to believe that I was also partially to blame. I know what I have been through and I know that the only mistake that I made was to be in the wrong place at the wrong time. No one will be able to alter my thinking on that. I was simply in a place where someone who was intoxicated, reckless, and out of control aggressively attacked me. This place was Lehigh University.

Another problem I had with Lehigh University was the manner in which they handled the school trial. I was required to be there but only as a witness. I went there knowing almost none of the defendant's circumstances or his background. All I knew was what happened that night and what I have been through since, plus a little amount of information which I was able to learn on my own. Lehigh University has intentionally avoided providing me with any information that they have gathered on the incident.

From my views on morals and sensibility, I believe that that information would have been sufficient to severely punish Jason McNutt. Now I know that that is wrong. You have to do a lot of homework if you want to see justice served.

Jason McNutt came to the Lehigh University hearing knowing detailed information about me, which I still cannot imagine how he obtained. At the university trial, he questioned every witness to the crime, including me on a one-on-one basis. I left gaining nothing. He learned every intricate detail about the incident and what every witness saw, perceived, and remembered. He was in control of the trial. He got to question me and even accuse me of things. When he was done with me, he said that I should leave.

I had no say in the activity of the university trial, nor was I allowed to make any final closing comments. From this trial, what punishment did he receive? A couple of months of probation and some hours of community service. He gained more information than a punishment from this.

Jason McNutt is a criminal who admitted to assaulting me. Yet, he is still permitted to attend classes and graduate on schedule from Lehigh University. This shows the kind of integrity the school has. Jason McNutt is now a second semester senior about to graduate. Yet, I can only assume these details because I have been told very little about him either formally or informally by any representative of the university. He is going to graduate without missing any school. I have already been forced to delay my academic career one semester at a minimum.

In the 6 months since the incident, I have gained little information on the circumstances of the incident or on the defendant. Police reports from the incident which I have requested have not been received. I have also requested the names of the witnesses who were at the scene. Yet, I have received nothing.

I have, in that sense, been stonewalled by the university staff from obtaining any information. This clearly demonstrates their general lack of assistance to me and their policy of covering up the incident. The only reason I can imagine for their behavior is to protect the university and its public image.

I feel that changes need to be made to the school security procedures. I would suggest taking control away from the campus police since they are too closely aligned with the school's administration. When this type of situation is allowed to exist, the students are not being protected by the laws of our country but by the laws of the university which has its own image to protect.

My bottom line of the incident is that I have been punished severely, yet the perpetrator of the situation has not. He is going to plead guilty to assault in a criminal court, yet he is allowed to remain on campus, attend classes, and graduate on schedule.

Finally, I believe the school should get its priorities straight and think of the welfare of the students over the reputation of the school.

Senator SPECTER. Mr. McKee, the proceeding that you have described has been a campus proceeding as opposed to a trial in a criminal court in Lehigh County?

Mr. MCKEE. No; just the campus, a school-run hearing.

Senator SPECTER. Was the individual who assaulted you tried in the criminal court?

Mr. MCKEE. Not yet. He is going to plead guilty to a simple assault, and that was going to be about a month ago except it got

continued. Now I have a subpoena for next week. I am going to testify at it. So, if things go as planned, he should plead guilty.

Senator SPECTER. Well, you may have some rights beyond a plea bargain. That depends on what the assistant district attorney [DA] does, but it may well be that the facts of the case rise higher than simple assault and battery when you describe your damages.

Mr. MCKEE. At first it was aggravated assault. He was charged with aggravated assault, but the DA said that there would not be much of a chance of getting that in court even though he read me the definition of aggravated assault, and I believe that in my situation every thing falls under that. The definition—I am not positive on it, but it is something along the lines of recklessly endangering the life or welfare of another human being.

Senator SPECTER. Well, I just wanted to comment, Mr. McKee, that you have the right to be there and to express yourself. You can be represented by counsel if you wish. You do not have to be. The assistant district attorney is the public prosecutor, but you can bring those facts to the court. You are a victim. You have a right to speak. Now, the judge does not necessarily have to agree to a guilty plea which is bargained with the assistant DA. I just wanted to point that out to you.

STATEMENT OF BARBARA PRENTICE, CENTERVILLE, MA

Senator SPECTER. Ms. Barbara Prentice, welcome. Ms. Prentice is the mother of Adam Prentice who was the victim of a campus crime resulting in the son's death. Ms. Prentice, thank you for coming and the floor is yours.

Ms. PRENTICE. Thank you.

My son, Barnstable resident Adam Prentice, a popular local athlete, swim instructor, and 4.0 computer systems engineering junior at the University of Massachusetts, Amherst, died from loss of blood several hours after suffering an injury on campus.

Adam had been out with friends but allegedly left them to walk back to his dorm alone around 12:30 a.m. He told them that he was tired and wanted to go home. It was homecoming weekend and the campus was unusually busy. At 1:30 a.m. Adam was found collapsed and bleeding profusely on the grass in front of several greenhouses in the center of campus.

Police had responded to an alarm at the site and noticed, quote, a smell of alcoholic beverage on his breath. They assumed he was intoxicated. One greenhouse wing had a hole through its roof. Another greenhouse had a hole through its side. Adam was found semiconscious, collapsed and moaning, but as police suspected this was a breaking and entering, he was restrained. He is described as going from semiconscious to combative, a typical reaction to shock due to loss of blood. Rescue was called.

Reports state that Adam said it was not my fault. Because no witnesses came forward at the hour of his injury, campus police determined that he was alone and cleaned the scene without preserving it or taking any forensic evidence. They released a statement later that morning requesting anyone with information to come forward, but they also stated that they believed Adam to be alone.

His family was never notified about the injury by officials of the university until after he had been pronounced dead 3 hours later.

Officials said they had not positively identified Adam yet. However, they had already run a criminal records check on him at 2:30 a.m., that morning which requires first and last name and did identify me and my home address. This was before Adam had died.

The only stab wound on his body was made by this 8-inch glass dagger that impaled him. There were bruises on his wrist, but no other scratches from the jagged glass he allegedly fell through. As no forensic evidence secured at the scene, I have no proof that Adam was ever in the greenhouse.

The first officer to respond reported that he had seen another person running through the middle greenhouse as he approached the building. As he rounded the corner, he found Adam either "passed out or hiding," quote, from him. Several other officers arrived. Adam is described as being found in conflicting states. One officer comments that initial observations of Adam were that he was semiconscious, soaked with fresh blood, collapsed and moaning, but in the same breath this same officer continues to state that throughout contact with the subject, he was highly combative. All reports implied that Adam's combativeness resulted from intoxication not shock.

My questions are, why did officers responding move my son? First, their written protocol dictates that a victim of a medical emergency should never be moved unless in danger. Police reports specifically state that Adam was found semiconscious and soaked with fresh blood from a severe laceration. Yet, he was ordered to stretch his arms overhead and restrained. Pressure was applied in the area impaled to stop the bleeding, possibly causing deeper penetration of the glass.

Why did the university not protect my son and their tenant while on their property?

Why were police so insensitive and ill-prepared for my call when I contacted them for details? I was placed on hold for almost 10 minutes, then told the detective in charge was still investigating and I would have to call back. I demanded to speak with the shift commander, but he told me it was not police protocol to contact parents. They leave that up to the hospitals, he said. When I asked for a copy of these written protocols, I was told that none existed.

Within the first week of Adam's death, rumors surfaced that he had been the victim of foul play, that he had been chased and pushed and was fleeing from something. Why were these rumors dismissed by police as speculation and never investigated?

Why did it take 7 weeks and my lawyer's request for police to follow up on an interview regarding the receiver of two anonymous calls stating that Adam had not been alone at the time of the incident?

Why does the second person seen originally, who was never found, metamorphosis into my son Adam making him both inside and outside of the greenhouse at the same time? Inside he is running through the greenhouse in a white T-shirt. At the same time, Adam is outside of the greenhouse semi-conscious and collapsed in a blood-soaked, fire engine red T-shirt, copies of which I have given in my written statement.

I wonder aloud if it was determined Adam was alone without taking the time to investigate because the homecoming parade was

due to pass the greenhouse later that morning and many prestigious alumna were on campus. It would certainly be easier to blame Adam for being so intoxicated that he could single-handedly crash backward through a roof, yet not too intoxicated to single-handedly climb on the roof, than it would be to alarm any guests by mentioning foul play.

Why was no effort put into other suspicious incidents reported in the police log that occurred within the same timeframe?

Although almost a dozen police officers contributed to Adam's investigation, not one of their reports is officially signed. Why?

The most devastating reality for me is the lack of accountability the police department has demonstrated by failing to provide security for their students. At the cost of Adam's reputation, they blamed his death on excessive drinking to protect their own reputation rather than to investigate the more probable possibility that foul play occurred.

Does the Constitution not state innocent until proven guilty? How different the turn of events may have been if they had approached Adam, as their own report indicates they should have. Quote, my first observation of the subject were that his shirt and denim pants were soaked with fresh blood. The individual was barely conscious, very pale, and moaning.

Why was I not notified immediately that my son had been injured? I would have advocated for him and demanded that he be taken to a trauma center.

Why was I told that Adam had not been identified soon enough to notify me when a criminal records check had been reviewed at 2:34 a.m., which listed me as next of kin and included my home address?

Before day break and before witnesses had even been sought for questioning, who determined that my son had been alone attempting to break into the greenhouse by crashing through the roof backwards, only to run through the next greenhouse, vault up onto a table, and kick himself out with an 8-inch shard of glass in his back?

Who ordered the scene to be cleaned up without securing it or taking forensic evidence?

Why has the police department denied me access to the officers who responded at the scene and can tell me what Adam said?

As a 4.0 honors computer systems engineering major recently inducted into the Golden Key National Honors Society, Adam was also a loss for the University of Massachusetts. Yet, I never received so much as a sympathy card or telephone call offering condolences from either Chancellor Scott or President Bolger. Is the way alumnus, which I am, should expect to be treated by the university officials when their children are victimized on campus property if that victimization might taint the reputation of the university?

Why is my son described in the police report as being 5 feet 10 inches, 160 pounds, stocky, and brown-skinned when he was 5 feet 3 inches, 130 pounds, lean, and white? Am I expected to believe in the credibility of this department?

I want to know why Assistant District Attorney Michael Goggins, whose help I sought regarding Adam, said that he realized it must be frustrating regarding the destruction of forensic evidence but,

quote, what is done is done. Who was responsible for what is done is done? This was my son's life.

Why can Adam's clothes not be returned to me? I want what was his last.

PREPARED STATEMENT

Adam excelled in everything he attempted because he approached life with 150 percent effort. Both Adam and I are born-again Christians. I know I will see him again, but when I do, I want to look him in the eye and say, son, I gave it 150 percent just like you taught me to.

Thank you.

Senator SPECTER. Thank you very much, Mrs. Prentice.

[The statement follows:]

PREPARED STATEMENT OF BARBARA PRENTICE

Distinguished members of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies:

Thank you for inviting me to share my views regarding security on campus. My name is Barbara Prentice, and I am a member of a select group of Americans across this country that has no designated class, race, profession, or age. My goal is to prevent you from joining my group. I am the grieving mother of a loving son who died under suspicious circumstances while at college.

On September 1, 1997, I kissed and hugged my firstborn child Adam goodbye as he prepared to leave for his junior year at the University of Massachusetts in Amherst. I reminded him to study hard, and to have fun, but to be careful. As an alumnus of the same university, I knew that the campus wasn't safe after dark. Adam never took my scolding seriously, believing himself to be infallible because of his gender and age. But he listened respectfully, and assured me he'd be fine. I waved goodbye, watching him drive down the street until his car was out of sight. This was the last time I saw him.

On September 24, Adam called to check in as he did every Sunday and Wednesday. We talked for 45 minutes—much longer than usual. It was a wonderful conversation, but it was late, so I suggested we hang up. I never talked to him again.

At 8 p.m., on Friday, September 26, I had an unusual urge to call Adam, but decided against it.

At 4:30 a.m., at September 27, I awoke to the telephone ringing—the phone call that all parents fear most. Dr. Tehrani identified himself as a trauma physician at Bay State Medical Center in Springfield, MA. He informed me that Adam had fallen through a greenhouse roof on campus several hours before, and had tragically been brought to the wrong hospital first. He proceeded to state that I'd have to get the details from the campus police, and that he was "so sorry to tell me that Adam had just passed away." At that moment, the Barbara Prentice known to self, family, friends, and associates, passed away, too. And I will never, ever be the same. There is no turning back; there is no recovery. Every waking moment breaths the loss of your child.

My son Adam was a resident of the Town of Barnstable, located on Cape Cod in Massachusetts. He was a 4.0 Honors computer systems Engineering major at University of Massachusetts, where he had been highly recruited. He worked two jobs for years as a head lifeguard and swim instructor for the YMCA and Town of Barnstable so he could put himself through college. At school, he continued to work part time, even though his classes were the most difficult offered on campus. He was an accomplished song writer, musician, and athlete in six sports, rising early each morning to exercise before work or classes. As a born-again Christian, his gentle, compassionate nature was respected by all. His friends ranged from a grandfather to the mentally challenged. He loved children, and had a gift for inspiring them through his work. Over the years, he'd taught hundreds of Cape Codders how to swim, and was referred to as a "quiet leader" and "ideal role model." His death has affected the entire community.

Adam died from loss of blood several hours after suffering an injury on campus. It was Homecoming, always a busy weekend in Amherst, and he had been out with friends. Around 12:30 a.m., he allegedly left them, stating that he was tired and wanted to go back to the dorm. Due to safety issues, they didn't want him to walk

home alone, but Adam was ready to leave, and they weren't. One friend went outside to see Adam off, then watched him walk toward the bus stop.

At 1:30 a.m., an alarm sounded at the greenhouses located in the center of campus. Adam was found on the grass nearby, collapsed and bleeding profusely. The greenhouses were located several blocks beyond the walkway that led uphill to Adam's dorm, and diagonally across the street from the campus bus stop. The first officer to respond reported that he had seen another person running through the middle greenhouse. As he rounded the corner of the building, he found Adam "either passed out or hiding" from him. Several other officers arrived. One noted that Adam was very pale, and had a "smell of alcoholic beverage on his breath." Officers located a hole through one greenhouse roof, and a second hole through the side of another. All greenhouses were attached. They suspected that this was a "break and entry in progress," and concluded that Adam had been attempting to maliciously destroy property valued over $250.

Adam is described as being found in conflicting states—one officer comments that "initial observations of Adam were that he was semi-conscious, soaked with fresh blood, collapsed and moaning," but in the same breath the same officer continues to state that, "throughout contact with the subject, he was highly combative." Rescue was called, and Adam "continued to be combative" as his clothes were cut off to determine the origin of the bleeding. He is also described as being found "conscious and alert," but then again as being "semi-conscious, mumbling, and hard to understand." While in the ambulance, it was recorded that Adam stated "it wasn't my fault," but there is no indication that rescue personnel questioned what he meant by this. All reports are subjective, implying that Adam's combativeness resulted from intoxication. He is even described as being "loaded." The facts are that he'd been stabbed in the back and impaled through the stomach by a shard of glass measuring 8 inches and resembling a knife. However, because police suspected Adam was either so drunk he didn't know what he was doing, or had been attempting to break into the greenhouse, he was restrained. Sources have reported to us that he had initially even been handcuffed.

Because no witnesses had come forward at the scene to volunteer any information, police determined that Adam was alone, and ordered the scene to be cleaned immediately without preserving it or taking forensic evidence. They issued a statement later that morning asking for information, but also stated that they believed him to be alone. Thereafter, they referred all inquiries to the the public affairs office.

Within 1½ hours, all blood, glass and dirt from the incident had been destroyed in the clean up, and the holes were replaced with new glass the next day. When I visited the scene two days later, there was no evidence at all that anything had ever happened.

In basic first aid, a victim of a medical emergency should never be moved unless in immediate danger. Police reports specifically state that Adam was found semi-conscious and soaked with fresh blood from a severe laceration, yet he was ordered to stretch his arms overhead and restrained. Pressure was then applied on the area impaled to stop the bleeding, even though officers had seen the glass in his back. How much deeper did this cause the glass to submerge, and no wonder he became agitated. In forcing him to lay flat, how much more physical pain did he have to endure needlessly? He was guilty until proven innocent, yet defenseless to advocate for himself. In spite of police knowledge of Adam's injury, they did not advocate for him either. He was not medflighted to a trauma center, the written protocol for impalement in Western Massachusetts. Nor was he transported by ambulance to a trauma center. Even though rescue personnel came upon a blood bath (photos attached), they chose to transport him to a hospital with no trauma facilities. And even though three officers were restraining Adam, they chose to transport him without enough manpower—the paramedic was driving, and an EMTI sat in the back with him. Consequently, in his state of pain and delirium, Adam was able to rip out his IV's and oxygen mask, preventing proper hydration. All parties involved assumed he was combative because he was intoxicated. Even though he was a tenant of the University, residing on university property and injured on university property, he was suspected of being a criminal before a victimized student! This is an outrage to the value placed on our children's lives. It is common knowledge to anyone with minimal first aid training that agitation is a classic indication of oxygen deprivation due to loss of blood.

At the hospital, Adam identified himself by full name, address, social security number, and birthdate. Hardly a task for someone intoxicated, never mind someone suffering as he was. Adam had also been carrying a picture ID in his back pocket, the most common place for a man to keep identification, but officers neglected to look either before or after cutting his clothes off. It appears that the doctor at the hospital was never advised about the impaled glass, as there is no further comment

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about it until 45 minutes after arrival, when he mentions seeing it in an x-ray. At this time, it was arranged for Adam to be transferred to Bay State trauma center. Simultaneously, he went into cardiac arrest, and had to be brought back in for stabilization. The second ambulance then had to await discharge papers before transporting him.

Enroute, Adam went into cardiac arrest again. He was defibrillated and given CPR until arrival at Bay State, where his chest was cracked for open heart massage. He was pronounced dead 7 minutes later. The cause of death was "loss of blood." He had never been given a blood transfusion, nor typed for one. It had taken 3 hours for him to bleed to death. He was conscious until the last half hour. During this time, I was never notified by University officials or the first hospital. It would have taken me less than 3 hours to drive to Springfield.

On September 27, 1997, I suffered the worst tragedy a mother can suffer: the preventable death of a beautiful child. This time it was my son, but he could have been yours. We send our children off to college assuming that the University of our choice will supervise their transition from teenager to young adult. We need to arm ourselves with the knowledge that this is no longer truthful, and we have to prepare our children for battle before sending them away. For the colleges we help select for them are more concerned with protecting their public image, and the safety of our students is often overlooked. I entrusted my child's health and well being to the same institution I myself had graduated from. Yet, because of an "odor of alcohol" on his breath, he walked blindly into an ambush. Like so many casualties of war, he came back to me in a body bag.

As a lifeguard, Adam was trained extensively in CPR and First Aid. He knew how critical his condition was. Did he call for me? Why won't those who know tell me what he said? Did he feel I'd betrayed him because I wasn't there? I wasn't given the opportunity.

After being notified of Adam's death by Dr. Tehrani, I called the University of Massachusetts campus police to "get the details" as he had suggested. I identified myself, but the dispatcher did not recognize "Prentice," so I clarified that I was Adam's mother. He still didn't know who I was, so I clarified that Adam had just died due to an injury suffered on campus. He then recognized the name, and asked what I wanted, of which I answered "the details." I was placed on hold for almost 10 minutes, then told that the detective in charge was still investigating and I'd have to call back. I demanded to speak with the shift commander, but he had no details either. I called Matt, Adam's room mate and childhood friend since middle school. Matt said that the police were storming through the dormitory as we spoke asking questions about Adam, and had just left his room. He hadn't been with Adam since 8 p.m., the night before, and didn't know why he hadn't come home. I then realized that Matt didn't know, and in my own hysteria, I was going to have to tell him that his best buddy since childhood was dead—Matt has never been the same.

Adam's last annual physical was a month before his death. His doctor described him as being a "well developed, well nourished 21 year old gentleman who doesn't smoke and rarely drinks." However, in spite of his excellent physical shape, Adam was small in stature, and a prime candidate for robbery or assault alone at 1 a.m., on Homecoming weekend. Police reports state that there was so much vehicular and pedestrian traffic on campus that night that two additional officers had to be called in to direct it. Yet, they had told me initially that it was a quiet night with no one around.

Within the first week of Adam's death, rumors surfaced that he had been the victim of foul play—that he'd been chased and pushed, or was fleeing from something for safekeeping. These were dismissed by police as speculation, and were not investigated. Police further commented to Adam's friends that they were concerned that they were talking to me because I had started these rumors! The editor of a regional newspaper also received two anonymous calls stating that Adam had not been alone at the time of the incident, but police did not call the editor for details until three days later. At that time, they talked with a reporter who had heard about the calls second hand. He allegedly stated that he did not believe them to be credible. The police did not bother to call the editor back himself until seven weeks later, when my lawyer learned of them, and requested they interview him directly. By this time, the editor could not remember much about the conversations, which were from two separate female sources on different dates and times. He did remember one as saying there had been a struggle with police, and that Adam hadn't been alone.

I would like to know why, based on a smell of alcoholic beverage, my son's life was not taken seriously. My child died this time, but if we don't put a stop to these incidents, he could be your child just as easily the next time. And without your intervention, there will be many other children, and many other times. No one had

checked Adam's identity prior to concluding he was attempting to break into the greenhouse. He could have easily been the son of a Senator. No one had checked Adam's identity before concluding that his combativeness was due to excessive drinking, when it was obviously due to oxygen deprivation and loss of blood.

Adam was found at 1:30 a.m. Why, then, was it determined at 2:54 a.m., that he was alone, and had been attempting to break into the greenhouse by crashing backward through the roof? Why does the second person seen originally who was never found "metamorphosis" into Adam, making him both inside and outside of the greenhouse at the same time? Inside, he is running through the greenhouse in a white tee shirt with an 8 inch shard of glass impaled in his back. He then trips an alarm upon entering another greenhouse, where he climbs up onto a table to kick himself out, even though he could have opened a door and walked out just as easily. At the same time, Adam is outside of the greenhouse semi-conscious and collapsed in a blood-soaked, fire engine red tee shirt. Three weeks later, when an officer was re-interviewed about the second person he, too, "was apparently Adam Prentice." This time, he is placed in the first greenhouse with a shirt matching the description of Adam's before it turned red.

To conclude, based on police reports, Adam was in three separate places at one time, all seen at 1:30 a.m., through a building from 75 feet that had no interior lighting, frost-tinted windows, and street lighting blocked from a large tree.

I wonder aloud if it "was determined" Adam was alone without taking the time to investigate because the Homecoming parade was due to pass by the greenhouse later that morning, and many prestigious alumni were on campus? It would certainly be easier to blame Adam for being so intoxicated that he could single-handedly crash backward through a roof, yet not too intoxicated to single-handedly climb up onto the roof, than it would be to alarm any guests by mentioning foul play. Is this why the scene was cleaned so quickly, without preserving it or taking forensic evidence? Do our children really crash through roofs with such frequency that it isn't deemed worthy of the time and effort involved to secure the scene?

Will I ever know if Adam fell through? Did someone fall with him (the 2nd person, who could have exited through the windows—only the doors were alarmed.) How could Adam have fallen through the jagged shards pictured without cutting, injuring or scratching his body anywhere aside from the stab wound? Why weren't his clothes torn and covered with glass? Was he stabbed outside or inside of the greenhouse?

In the police log for September 27, there was another man identified with a severely lacerated hand who was rushed to the same hospital 20 minutes after Adam. I was told by both the assistant district attorney and the chief of police that this student had punched out a dorm window. As there were no witnesses who saw him, my question to the department has always been why? Did he punch out the window? Who was with him when he did it, and where had he been between 12 and 2 a.m?

My son led a more than exemplary life, as attested to by the many character references attached. My suspicions and concerns regarding the mishandling of Adam's death are listed chronologically below as they occurred:

The most devastating reality for me is the lack of accountability the police department has demonstrated by failing to provide security for one of their best students. At the cost of Adam's reputation, they blamed his death on excessive drinking to protect their own, rather than to investigate the more probable possibility that foul play was involved. In assuming Adam was drunk, police allowed the destruction of forensic evidence and denied him the most basic of his civil rights: the right to an objective, unbiased investigation. Does the Constitution not state "innocent until proven guilty?" How different the turn of events may have been if they had approached Adam as their own reports indicate they should have: "My first observation of the subject were that his shirt and denim pants were soaked with fresh blood. The individual was barely conscious, very pale and moaning."

Why was Adam moved when no one knew how he'd been injured? Why was he requested to stretch his arms overhead and restrained? How much further did this impale him, and how much more agony did he suffer because of it. Why wasn't he treated with the compassion and sensitivity he so readily bestowed on all who crossed his paths, including many children of police officers and emergency personnel? Are the lives of our students so insignificant and devalued that police are more concerned with suspecting them of foul play and alcohol abuse than in ensuring the second most basic of Adam's civil rights violated: the right to fair, unbiased medical treatment? How different might the turn of events have been here if the rescue squad had made their own medical assessment, rather than accepting the police assessment? If Adam had been medflighted to either trauma center in the area, I believe he'd be here today. No one was stronger or healthier than he.

Why wasn't I notified immediately that my son had been gravely injured? I would have advocated for him and demanded that he be taken to a trauma center.

Why was I told Adam hadn't been identified soon enough to notify me, when a Criminal Records check was completed as early as 2:39 a.m., 1½ hours before Adam died, that listed me as his mother, and my address as his home address? Why was I lied to, and why was it more important to seek information regarding a possible criminal background on Adam than it was to notify me? Why wasn't I given the opportunity to say goodbye to my son by University or hospital officials? I was told they were too busy trying to save him. If that is the case, why wasn't he taken to a trauma center as their protocol dictated he should have been?

Why didn't the rescue squad treat Adam's injuries per the written protocol for impalement, loss of blood and soft tissue injury? As professionals, why didn't they recognize the classic symptoms he demonstrated regarding blood loss? His clothing was soaked in blood and in full view. They knew he was impaled.

At 2:54 a.m., who determined that Adam had been alone, attempting to break into the greenhouse by crashing through the roof backward, only to run through the next greenhouse, vault up onto a table, and kick himself out? How could anyone determine that he was alone when they themselves destroyed the evidence that may have proven otherwise by not preserving it?

Who did order this bloodbath scene to be cleaned up without securing it or taking forensic evidence?

I know Adam talked. Did he tell them what had happened, only to have them judge his attempts to communicate as "loaded" gibberish and "inappropriate" words sounding like, "it wasn't my fault," but they clearly remembered him to say, "I guess I drank to much?" Why has the police department denied me access to the officers who responded and can tell me what Adam said? Why do they make me suffer more than the loss of my son alone, when it isn't necessary?

When rescue arrived, three officers were restraining Adam, yet he was placed in the ambulance with one EMTI. Why was he allowed to be transported with inadequate manpower? Why was the paramedic, the higher ranked of the two, driving?

Why is there no mention of the impalement at Cooley Dickinson hospital in reports until the doctor identifies it 45 minutes later in an x-ray? Didn't the rescue squad advise him about it? Was it still visible, as it had been at the scene?

Why wasn't Adam blood-typed or transfused at Cooley Dickinson? Why wasn't I called from there?

Upon the suggestion of Dr. Tehrani, when I called the police department for details surrounding Adam's death, why was I treated with such arrogance? I was placed on hold two times, given no information, then told I'd have to call back. When I called Adam's room mate for details, they were in his dorm and demanded to know why I was calling. When I asked Chief Luippold why I was treated in this manner, he said the hospital should have notified them that I had been informed so they could prepare a statement. I wanted facts, not a prepared statement. I was then told it "wasn't University protocol" to notify families—it was the hospital's responsibility. Yet, the hospital told me to call them for the details.

When I asked for a written copy of the protocols, policies and procedures regarding safety on campus and the chain of command followed in reporting them, I was told no such document existed.

When I asked why no one had been concerned enough to report Adam missing, I was told that this wasn't the responsibility of fellow students or resident advisors, that "We operate from the philosophy that our students are adults and as such are responsible for their own actions. I am very sorry for your loss."

As a 4.0 Honors Computer Systems Engineering major recently inducted into the Golden Key National Honor Society, Adam was also a loss for the University of Massachusetts. Yet, I never received a sympathy card or telephone call offering condolences from either Chancellor Scott or President Bulger. Is the President's new $1,000,000 per year office space in Boston so expensive that he couldn't afford the cost of a card or long distance call? Is this the way alumnus should expect to be treated by University officials when their children are victimized on campus property if that victimization might taint their reputation? I entrusted my child to the University of Massachusetts for safekeeping. I requested that he live on campus property because he'd be safer there. The University was Adam's landlord, and he their tenant.

Chief Luippold and I first discussed Adam death several hours after I'd been notified that morning. He offered his condolences, then asked if I was aware that my son had a history of alcohol abuse in Barnstable? This was in reference to the CORI check requested at 2:34 a.m., which noted that Adam had been charged with "minor in possession" in August 1995, but this charge had been dismissed, and court fees were reduced to "noise violation." The facts of this incident were that 26 lifeguards

on Cape Cod were singing and playing guitar on the beach. There was an untapped keg of beer that one of the guards, who was over 21, had purchased for another party later. Not one guard had even sipped an alcoholic beverage at the time of the arrests. All 26 were arrested, all "minor in possession" charges were dropped, and all paid a fine for noise violation due to the singing and guitar playing. No other incidents were recorded, yet Chief Luippold referred to an unfounded charge in August 1995 that had been dismissed as "alcohol abuse?" I want to know what this dismissed charge 2 years prior had to do with Adam's death? Wouldn't it have been more appropriate to review his academic record?

Why weren't Chief Luippold and his department spending those first crucial hours investigating Adam's death? Why was it more important to research Adam's background for non-existent drinking habits? Shouldn't their primary concern have been to begin the tedious process of re-constructing why and how he'd just died? Was it Adam's fault that they had destroyed the evidence that might have answered these questions?

Why didn't the Office of Public Affairs ever release any information about Adam aside from "21 year old junior from Cape Cod who was intoxicated at the time of the fall?" Why did police state that they were looking for information from anyone who might have seen Adam that night, but they believed him to be alone? Why not just say, "We're going to say the case is open, but we made our minds up at 2:54 a.m., what will be allowed to be said, so we determined he was alone and cleaned the scene. If you saw anything, don't bother telling us, it is just speculation."

Why didn't police follow up immediately on the anonymous calls to the editor of the Gazette stating that Adam was not alone? Why did my lawyer have to request this through the DA's office, which still took them 7 weeks, by this time, the receiver of the calls had forgotten most of the information.

Why did the police tell Adam's dorm friends that I had started wild rumors and speculations about Adam being chased and pushed, when I had been told this by an acquaintance whose son lives in Amherst who had heard it within the first few days of Adam's death?

Why were Adam's dorm friends discouraged from talking to me and told that I would feed them wild speculations, yet University officials told me it was they who refused to talk?

Why was I told that Adam's friends were quoted as saying they were all so intoxicated they didn't know where they'd been, and that they were so hung over they couldn't remember anything the next morning, and that they feared for Adam because he, to, was intoxicated? After reading their reports and talking to them, they denied ever telling police they'd been intoxicated, stating that they'd all drank earlier in the dorm, as did Adam, but after returning from a walk with a friend, he seemed back to normal? He did not drink again that night, although others did.

Why was Adam's autopsy BAL so low, 0.12, as opposed to other "alcohol-related" autopsies of 0.42, 0.65, in the news recently. The driving limit used to be 0.15 several years ago; it was only recently lowered to 0.08!

Why is Adam prescribed in the police report as being 5 feet 10 inches, 160 pounds, stocky and brown-skinned, when he was 5 feet 3 inches, 130 pounds, lean, and white? Am I expected to believe in the credibility of this department, were they describing the second person who later "metamorphosed into Adam, or are they just so insensitive that they don't bother to research the facts?

Why do police reports specifically state that Adam Prentice bought the alcohol for the party that night, when he was still studying at the library at the time the alcohol was purchased? The student who drove the buyer to the liquor store even informed police that Adam had not bought the alcohol, yet they wrote it anyway.

Why can police speculate about information that is a proven lie, but I can't speculate about information I've heard to be true? Why do they prefer to manipulate statements made from Adam's friends to fit a scene from their point of view that never happened, rather than to get to the bottom of what really happened?

Why does the DA's office in Northampton, whose help I sought in clarifying the answers to the above-mentioned questions, respond by stating that "we all share your frustrations" regarding the evidence destroyed by cleaning up without preserving any, but "what's done is done."

I want to know who should be accountable for, "What's done is done?" Would "What's done is done,"satisfy the DA and Chief of Police if Adam were their son? Would they permit their child's reputation to be slandered because he had the misfortune to be victimized on campus property—perhaps even stabbed deliberately, only to be victimized again when "help" arrived and accused him of malicious destruction? And again when rescue arrived and misjudged his injury, sent him to the wrong hospital, without enough manpower, and by the wrong source of transportation?

Why did Melinda Soffer, another attorney at the Northampton DA's office, immediately change her attitude at the mention of Adam's name during a phone conversation with Security on Campus staff when she called to compliment their website? She described herself as a lawyer working in a large college community in Massachusetts, and wondered if there was anything she could do to help. When it was suggested that she assist me in seeking answers regarding the suspicious death of Adam Prentice, her voice changed from friendly to ice cold, as if a dirty word had been spoken. She abruptly ended the conversation, and never called back to volunteer the services she'd just offered.

Why do I have to beg for Adam's clothes to be returned to me? I want what was his last.

Why were Adam's closest friends from the Cape who attend University of Massachusetts interviewed for character background, but everything they'd said regarding Adam's credibility was overlooked? Why do police refer to rely on the speculations made third party by individuals who didn't know Adam as evidence to support their theory that this crime was alcohol-related? Adam's closest friends told them that when he did drink, it was far less than them because he was such an accomplished athlete, and he preferred getting up early to exercise as opposed to staying out late to party?

Why was so little value placed on my son's life because of a smell of alcohol on his breath that he had to die needlessly?

I long for the day that I can grieve my son instead of defend him. These first months without him bring a new milestone to overcome with each passing day. The first Columbus Day holiday without shopping with him for winter clothes, two months since I saw him last, four months since I heard him say "Hi Mum" on the phone. The first birthday this Sunday without his thoughtful cards. Regardless of how busy Adam was, he always took the time to remember me. Mother's Day in May 1997 was the last card I'll ever receive from him. I am a gardener, and the card begins with:

"My mother kept a garden, a garden of the heart, she planted all the good things that gave my life its start. She turned me to the sunshine and encouraged me to dream, fostering and nurturing the seeds of self-esteem. And when the winds and rains came, she protected me enough—but not too much—she knew I'd need to stand up strong and tough. Her constant good example always taught me right from wrong—markers for my pathway that will last a lifetime long. I am my mother's garden, I am her legacy—and I hope today she feels the love reflected back from me."

He then went on to hand write,

"Mom, thank you for being yourself. You are the best mother in the world. You've proved this to me time after time. Being away from home I realize you have given me everything that I need to succeed. Thank you for everything that you've done for me over years. I wish I was home to celebrate this day with you. But, before you know it, I'll be back."

If only this were true.

The Christmas holidays were the cruelest—while friends shopped for their children's gifts and attended the traditional parties, I upgraded my hardware to research Adam's investigation more efficiently. The most expensive gift I purchased this season was a headstone for Adam's grave. It has a swimmer carved into black rock and the inscription "Lifeguard of Barnstable" arched above it.

What is it like to lose a beloved son so needlessly, only to have his impeccable character sacrificed relentlessly to protect the reputation of the very institution he'd saved so hard to attend? At an early age, Adam had accepted Jesus Christ as his personal savior, as have I. This is my only comfort. When I see him next, it will be for eternity.

I am not a public speaker, but Adam was. Adam excelled at everything he attempted because he approached life with 150 percent effort. In honor of his memory, I choose to give his investigation 150 percent. When I see him again, I want to look him in the eye and say, "Son, I gave it 150 percent, just like you taught me to." It truly is a rarity when a mother has learned so much from her child.

Until then, I visit his graveside with the dawn of each morning. The quiet of the cemetery at this time is my refuge. I tidy the trinkets and cards left by his friends, then sit in my car for my prayers and devotions. Occasionally, I think of going to the ocean. We have both always loved the ocean, and spent 21 years together sitting and talking at the same spot he lifeguarded from in recent years.

I wonder what Adam would have done with his life had he been given the opportunity to live it? He would have made an impact on all he touched, as the many testimonies I've attached will attest he made in their lives.

Would he have worked as an Engineer in competitive industry, designing computer systems and writing 21st century programs? Would he have owned a business, or taught Math and Engineering at the University level? He loved to teach, and was planning to attend Graduate School in California. Would he have quit it all to write his lyrics and play guitar?

I will always remember him where he was happiest: sitting high upon his lifeguard chair, twirling his whistle and pondering the gentle waves of the Cape Cod ocean he loved so much under the warmth of the summer sun.

"Those that would exchange essential liberties for a little personal safety deserve neither liberty nor safety."—Benjamin Franklin

STATEMENT OF DR. STANLEY IKENBERRY, PRESIDENT, AMERICAN COUNCIL ON EDUCATION

Senator SPECTER. I would now like to turn to Dr. Stanley Ikenberry, president of the American Council on Education. The floor is yours, Dr. Ikenberry.

Dr. IKENBERRY. Thank you, Mr. Chairman. I think we have heard some important and moving testimony here today, and the issue before us I think is important not just to this committee but to colleges and universities across the country. Making campuses safer places, making people aware of danger, and investing in education in campus security is a high priority issue for higher education generally and for campuses specifically.

My own personal experience comes from 10 years at Penn State and 16 years as president of the University of Illinois.

Let me state at the outset that I know of no college or university president in the country who would tolerate a coverup of crime or failure to properly report crime. Publicizing criminal incidents and providing information on campus crime helps reduce crime, in fact, by alerting the community to its danger and encouraging prudent behavior. There are, in addition strong legal as well as strong ethical reasons to publicize accurate information about crime on campus.

So, my first point, Mr. Chairman, is I think presidents do care about this issue.

As concern for personal safety has continued to grow in all aspects of the society, campuses have become more and more focused on creating and maintaining safe environments. The level of awareness and concern about crime on campus is steadily increasing. Individual institutions have responded to the need for greater security by employing a wide range and variety of strategies. Perhaps the most visible, for example, have been the installation of increasingly sophisticated lock and key systems, property identification programs, campus watch programs, illumination of the campus grounds, student escort services, security phone boxes, and many other measures. The security forces have also grown in number and expanding the screening, training, and supervision of campus personnel has expanded as well.

Campus, city, county, and State law enforcement groups frequently work more closely together and often as one. Data reporting on security incidents I think is more professionally gathered and more timely reports are made.

Of special importance are the efforts that colleges and universities are making to educate students, faculty, and staff on these issues. Although institutions have done and continue to do much to improve public safety, the responsibility is a shared one, and

that is why education programs are particularly important for students and staff.

The 1990 Campus Security Act has brought publicity to this issue, and publicity I think helps make all of us aware of the importance of maintaining a safe campus. But publicity alone is not sufficient. Institutions nationwide must undertake a broad array of measures if we are to continue to make campuses the safe places that they must be.

My hope, however, Mr. Chairman, is that any changes in campus security laws be judged on the basis of whether in fact the proposed change will actually reduce crime on campus and whether in fact it could have unintended consequences.

I believe, for example, the mandating of open campus disciplinary proceedings could have unintended consequences that would retard rather than accelerate the accurate reporting of incidents, and, therefore, it would not serve students, parents, or communities well.

PREPARED STATEMENT

Colleges and universities are committed, Mr. Chairman, to improving campus security and safety. We will continue our efforts in that regard. To respond most effectively to local community conditions, schools need to be able to spend security related funds in areas that will have the greatest impact per dollar. Not all measures are equally effective on all campuses because the environments vary quite widely from campus to campus.

Mr. Chairman, I appreciate the opportunity to appear before you today and would be pleased to respond to questions.

Senator SPECTER. Thank you very much, Dr. Ikenberry.

[The statement follows:]

PREPARED STATEMENT OF STANLEY O. IKENBERRY

Mr. Chairman, I am Stanley O. Ikenberry, president of the American Council on Education. ACE represents over 1,600 public and private, two-and four-year colleges and universities across America. Along with other higher education associations that have endorsed this statement, we are pleased to join with you in seeking measures that may lead to a safer and more secure campus environment for our students, faculty, and staff.

My personal perspective is drawn from my 10 years at Penn State, which has over 20 campuses state-wide, and my 16-year tenure as president of the University of Illinois. Illinois has only three campuses: a small one, in Springfield, and two others that are quite large, in Chicago and Urbana-Champaign.

College and university campuses are communities filled with people of all ages and backgrounds, and these communities function within a larger city or region. The size of the campus and its proximity to other communities or cities influence the challenge of making campuses safe.

Both on campus and off, crime is a possibility—mostly it is petty, but sometimes it can be deadly. Presidents and chancellors know that reporting these incidents contributes to campus safety by making the community more aware of dangers and vulnerabilities.

As concern for personal safety continues to grow in all of society, campuses have become more and more focused on creating and maintaining safe environments by hiring more public safety officers, investing in training and equipment, enhancing reporting systems, and working with students, faculty, and staff in hundreds of way to help make campuses like Penn State and Illinois safer places to team and grow.

Let me state at the outset that I know of no college or university president who would tolerate a cover-up of a crime on campus. As I indicated earlier, publicizing criminal incidents and providing information on campus crime helps reduce crime on campus by alerting the community to dangers and encouraging prudent behavior.

The University of Illinois at Urbana-Champaign, for example, publishes three comprehensive reports a year that break down crimes by location, time-of-day, day-of-the-week, sex of victim, and other factors. The campus and local media distribute the report and educate the public about risk factors. Many colleges and universities throughout the U.S. have adopted similar information measures, tailored to the circumstances and needs of each campus.

There are, of course, strong legal reasons to publicize accurate information about crime on campus: colleges and universities should protect themselves from legal challenge by widely disseminating information of any significant incident. Institutions that have made an aggressive, good faith effort to make the campus community aware of criminal incidents are less likely to be found negligent in a court of law.

I disagree with those who suggest that colleges cover up crime. The fact remains that crime does occur on campus as elsewhere in the society, and campuses must work aggressively to address and stop criminal activity. At one time, the college campus may have been a sanctuary where there were few dangers to physical safety. Sadly, that is no longer true. As with society in general, safety on campus must be an issue of constant concern.

College and university presidents are very much aware of the need to address campus crime. For the last decade or more, colleges have been spending more money on increased security; sponsoring more information and educational programs; encouraging more positive social activities; and attempting to help students, faculty, and staff cope when a crime occurs. In 1988 we had 37 police officers at a cost of $1.8 million on the University of Illinois's Urbana-Champaign campus. This year there are 51 officers and the annual expenditure exceeded $3.4 million. In addition, in the last three years, the Urbana campus has spent over $750,000 for increased lighting, emergency phones, and other security measures.

Higher education associations such as ACE have been responsive to the changing security needs on campus and to heightened public concern about campus safety. ACE has taken the lead in focusing the attention of college and university administrators on the need for improved security. In December 1985, prior to passage of the federal Campus Security Act or any state-level laws, we prepared and mailed to all colleges a document entitled Achieving Reasonable Campus Security, which provided campus officials with a checklist of suggested practices. In addition to regular updates on this issue in our biweekly newsletter, we have published a book by Professor Michael Clay Smith, entitled: "Coping With Crime on Campus," which explores both legal issues and security measures in great detail. ACE and other higher education associations routinely sponsor sessions on this topic for college presidents at our annual meeting. We recently compiled a compendium of information related to the problem of alcohol abuse on campus, all of which is available on ACE's web page at www.acenet.edu.

These materials are designed to summarize research of importance, provide guidance to campus officials, suggest creative responses to dealing with campus safety, and emphasize potential liability for failure to deal with these issues properly. These documents provide a substantial reservoir of information that enables colleges to determine whether their campus regulations and security structures are adequate and to identify steps for improvement.

Given the concern about this issue by policymakers and the public, the level of awareness and concern about crime on college campuses is steadily increasing. Individual institutions have responded to the need for greater security by employing a variety of strategies. Perhaps easiest and most visible have been the installation of increasingly sophisticated lock and key systems, property identification programs, campus watch programs, increased illumination of the campus, student escort services, and security phone boxes. Security forces also have grown in number, with expanded screening, training, and supervision. Campus, city, county, and state law enforcement officers work much more closely together and at times as one force. Data regarding security incidents are gathered and appropriate reports are filed. Of special importance are the efforts colleges make to educate and regularly remind students, faculty, staff, and other members of the campus community about security risks and procedures.

Although institutions have done and continue to do much to improve safety, the responsibility is a shared one. Students and student behavior are essential to the safety equation as well. It is important that institutions alert students to campus safety issues, but it is equally vital that students take steps to protect themselves. Unless students take advantage of the safety programs and services offered by our institutions, campus safety strategies will not succeed.

Our students generally come to college from relatively safe home environments. Often this is the first time they have had to bear much responsibility for them-

selves, their health, and their behavior. Some students think they are invulnerable: "bad things only happen to other people." Such an outlook, in my experience, can be extremely dangerous. Campuses must constantly seek ways to inform students about the consequences of crime and encourage them to take reasonable steps to protect themselves; but no school can insure the safety of its students if the students themselves do not show good judgment, if they do not take care of themselves, or if they do not think about the well-being of those around them.

The 1990 Campus Security Act has brought publicity to this issue—and publicity helps make all of us aware of the importance of maintaining a safe campus. But publicity alone is not sufficient. Institutions nationwide must undertake safety measures if we are to have a reasonable chance of both educating students about the frequency of crime and reducing the likelihood of crime on campus.

Because of the complexity of the law and its manifold requirements (I will include a list of reporting requirements as an appendix to my statement) many campuses have had difficulty in meeting federal reporting requirements. This was confirmed in a March 1997 General Accounting Office (GAO) report on campus crime (GAO–HEHS–97–52) which states, "at the campus level, colleges are finding it difficult to consistently interpret and apply some of the law's reporting requirements." After reviewing 25 campus crime reports, GAO concluded that some campuses had underreported crime while others over-reported it. The GAO report found that the Department of Education had provided little technical assistance to help campuses implement the reporting requirements.

Audits of campus safety reporting conducted by the Department of Education have reached similar conclusions. While the audits found no evidence that campuses attempt to hide crimes, they concluded that crimes are sometimes inaccurately reported. In some cases crimes are miscategorized. For example, a larceny may be erroneously reported as a burglary.

Since the GAO report was released and its findings confirmed, the Department has increased its technical assistance efforts. In addition, the current work to update audit guidelines for independent auditors may help achieve more consistent reporting. In some cases where the Department of Education has audited schools, Department officials have disagreed among themselves as to what the law requires.

One particular area relating to campus security that has drawn intense interest is the campus student disciplinary process. Student disciplinary systems are not intended to be, nor are they, a substitute for the civil or criminal courts. They are, instead, the method by which a college enforces its own standards of conduct that go beyond the requirements of law and include violations of academic norms of behavior. Student disciplinary codes do not result in criminal fines or criminal jail sentences; instead, their purpose is to provide a reasonable living and learning environment for students. When students violate the law, they also remain subject to criminal prosecution.

When criminal acts are reported to school officials, a common response is to discuss with the alleged victim the range of resources and alternatives available. The options include not only asking that the college enforce its rules by taking disciplinary action against the offender such as expulsion, but also asking law enforcement officials to prosecute the offender. If the student victim desires, a school official (perhaps a counselor or someone from student affairs) will accompany and support the victim during meetings with authorities. In this way, colleges are doing precisely what they should be doing: apprising the victim of available alternatives and resources, and approaching each case with an eye to the best interest of all of the students who are involved.

The "Accuracy in Campus Crime Reporting Act of 1997," H.R. 715, would expand reporting requirements of campus crime laws. Some of the proposed changes in federal law envisioned by this law are reasonable. For example, expanding the list of reportable crimes to include arson, simple assault, larceny, and vandalism is a reasonable step, although specific legal elements of each of these crimes must be delineated. A provision to open campus crime logs may prove helpful, but any requirement should allow a reasonable delay to ensure accuracy, to protect the rights of victims and the accused, and to avoid any impediment to a criminal investigation. Requiring campus crime reports to be submitted to and published by the Department of Education—though we believe it serves no useful purpose will not create any additional difficulty for campuses, unless it results in a reduction of the technical assistance provided by the Department of Education.

However, some of the proposed changes in this bill will be clearly counterproductive. For example, it would require a large number of campus officials—some with confidential counseling responsibilities—to report knowledge of crimes. Under H.R. 715, campus administrators, deans, disciplinary officers, athletic department officials, housing officials, counselors, and others would be required to report any

knowledge of a crime committed on campus. Is this likely to lead to accurate and valuable reports? Hardly likely. Will it create a complex and expensive training burden? Absolutely.

Such a proposal would require that all of these individuals be trained to recognize the legal difference in crimes—such as larceny versus burglary—and report information properly. Training these myriad of individuals will be costly and it will be an ineffective and wasteful use of resources that otherwise could be used to enhance campus safety. Can this training be done? Yes. Is it a good way to reduce crime on campus? No.

Moreover, such a requirement could create a problem for counselors and other campus officials, particularly in incidents involving sex-related offenses. Students who have been the victim of a sexual assault often want to talk to a trusted adult in a confidential manner. Housing or residence staff are especially important in this role; a requirement that they report incidents, even on an anonymous basis, may well discourage victims from seeking help. We are especially concerned about the position in which this places Resident Advisors, who generally are students themselves. In addition, requiring "counselors" to report any knowledge of crime could discourage students from seeking needed assistance and threaten the confidential relationship between medical personnel and their clients. Such issues must be considered carefully before binding legislation that brings counterproductive results is passed.

In the same vein, H.R. 715 would cause the federal government to dictate campus disciplinary proceedings and require that these be open to the public. This could have a chilling and counterproductive effect on the reporting of crime on campus. Victims of campus crime especially sexual assault—often use these proceedings when they want some "justice," but are not willing to press criminal charges. These victims, we feel, will be less likely to report crimes and seek a resolution if the incident is to be discussed in a public forum. Faced with such a choice, they may decide to drop the matter altogether.

Any changes in the campus security law should be judged on several grounds. First, will the proposed change actually reduce crime on campus or will it have unintended consequences? I believe, for example, that forcing open campus disciplinary proceedings could result in a reduction of the reported incidence of crime on campus, not better or more accurate reporting. It will not help to reduce the actual level of crime on campus.

Second, campuses and policymakers should consider whether the c[illegible] the proposed change will result in a benefit of equal value. For example, requiring large numbers of campus personnel to be trained to recognize the difference in types of crimes so that they can accurately report the crimes in the unlikely event that they learn of one, is simply not a cost-effective proposal. Such a practice will reduce the campus resources that go into crime prevention and education efforts on campus.

Colleges and universities are committed to improving campus security and safety, and will continue their efforts in this regard. To respond most effectively to local community conditions, schools need flexibility to spend security-related funds in areas that would have the greatest impact on safety, not on an ever-increasing array of reports.

At a time when more financial demands are being placed on colleges and universities by state and federal governments, any "one-size-fits-all" approach to campus crime is unlikely to be as effective as one tailored to local community conditions. Large urban campuses often need entirely different security measures than small rural colleges. We would encourage you to allow schools the flexibility to respond to local security concerns in individualized ways.

We appreciate the opportunity to share our comments with you and stand ready to work with you, other members of your committee, and your staff to help reduce campus crime.

REPORTING REQUIREMENTS OF THE CAMPUS SECURITY ACT OF 1990

(1) policies, procedures, and facilities for persons to report criminal actions and other emergencies;

(2) policies for reporting crime, including the name and title of each person or organization to whom students or employees should report crimes, and policies for making timely reports of crimes to the campus community;

(3) policies addressing security of and access to campus facilities and security considerations in the maintenance of campus facilities;

(4) campus law enforcement policies that include an analysis of the enforcement policy of campus security personnel, their working relationship with state and local officials, and efforts to encourage prompt, accurate reporting;

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(5) a description of the frequency of programs held to inform students and employees about security procedures and to encourage them to be careful;
(6) a description of programs used to inform students about the prevention off crimes;
(7) statistical data about the occurrence on campus of six types of crimes reported to local police or to any official of the institution having significant responsibility for campus or student activities;
(8) statistics about arrests for crimes involving liquor, drugs, or weapons;
(9) statistics on murder, forcible rape, and aggravated assault that can also be classified as a hate crime;
(10) policies on monitoring and reporting criminal activity by student organizations of campus;
(11) policies regarding the possession, use, and sale of alcoholic beverages and the enforcement of underage drinking laws;
(12) policies on illegal drug use and the enforcement of federal and state drug laws;
(13) a description of drug and alcohol abuse education programs; and
(14) policies regarding campus sexual assault, including nine specific procedures required by the law that campuses will follow when a sexual offense occurs.

STATEMENT OF MICHELE GOLDFARB, DIRECTOR, OFFICE OF STUDENT CONDUCT, UNIVERSITY OF PENNSYLVANIA

ACCOMPANIED BY PETER C. ERICHSEN, VICE PRESIDENT AND GENERAL COUNSEL, UNIVERSITY OF PENNSYLVANIA AND UNIVERSITY OF PENNSYLVANIA HEALTH SYSTEM

Senator SPECTER. I now turn to Ms. Michele Goldfarb, from the University of Pennsylvania, overseeing the operations of the student disciplinary section and resolution of alleged violations of the code of student conduct and code of academic integrity. Ms. Goldfarb, the floor is yours.

Ms. GOLDFARB. Good afternoon, Mr. Chairman. I am Michele Goldfarb, director of the Office of Student Conduct at the University of Pennsylvania. Before my present position, I was an assistant district attorney for the city of Philadelphia, a faculty member at the University of Pennsylvania Law School, and an assistant U.S. attorney.

Before I begin, I would like to note that I am accompanied by my colleague, Peter Erichsen, the vice president and general counsel of the University of Pennsylvania and the University of Pennsylvania Health System.

I appreciate the opportunity to discuss the proposed Accuracy in Campus Crime Reporting Act. I have submitted a statement for the record that I would like to summarize.

Also attached for the record is correspondence from University of Pennsylvania president Judith Roden. President Roden has consistently emphasized two points with regard to the Campus Security Act.

First, the university is absolutely committed to fulfilling both the letter and the spirit of the law.

Second, she has consistently affirmed and led institutional actions and changes to increase the safety and security of our campus. These initiatives have been significant. I have also attached for the record a list of recent actions taken by the university to these ends.

It is the purpose of the student disciplinary system to further the educational mission of the university by resolving alleged violations of the code of student conduct. The university disciplinary process does not supplant the criminal justice system

The Office of Student Conduct at Penn has twin goals. The first is to help create a safe environment where academic life can flourish, and the second is to promote the development of students.

When serious and dangerous infractions are reported to our office, we make every effort to involve local law enforcement. Complainants are always notified of their option to pursue outside remedies, such as private criminal complaints, restraining orders, and civil lawsuits, and are encouraged to do so. We follow these cases closely and fully cooperate with local prosecutors. We support the notion that students should face criminal charges where appropriate and that the victim should avail him or herself of the full use of the criminal justice system, in addition to the university disciplinary process.

Many of the matters that come to the attention of our office, however, are cases which local law enforcement authorities, especially in a city the size of Philadelphia, would never handle through the criminal justice system. As you know, Mr. Chairman, the district attorney of Philadelphia cannot begin to address all of the cases that might theoretically be handled by it.

As a former prosecutor with experience in both local and Federal courts, as well as the university's chief disciplinary officer, I am acutely aware of the differences between disciplinary proceedings on a college campus and a criminal proceeding. Student disciplinary processes are meant to set the standards of behavior on our campuses and to determine a student's standing in our community. In contrast to the criminal justice system, disciplinary proceedings are limited in scope. Our procedures and goals do not mirror the panoply of laws, safeguards, and rules which characterize civil and criminal trials. I cannot overemphasize the fact, which is frequently misunderstood, that internal disciplinary proceedings are not meant to replace or substitute for the criminal justice system.

That said, however, student disciplinary processes provide an important additional forum to respond to the interests of the university community. Our processes are designed to educate and, where appropriate, punish those students who violate our rules. We seek both to promote a student's sense of responsibility by enforcing accountability and also to protect our community by, where necessary, removing or restricting those who pose a threat to others.

I turn now briefly to the proposed Accuracy in Campus Crime Reporting Act.

As you know, this legislation would require open student disciplinary proceedings and records if criminal conduct is alleged. Mr. Chairman, the University of Pennsylvania has had 7 years of experience with the Campus Security Act. The Department of Education has been working to provide clear and consistent guidance on how to interpret that law.

With regard to the disciplinary process, current law is preferable to any of the changes that have been proposed in ACCRA. The proposal to require open disciplinary proceedings would not accomplish ACCRA's stated goal of creating a safer campus environment, nor would it serve to publicize crime on campus. Indeed, ACCRA would undoubtedly have a chilling effect on many students' willingness to report incidents of misconduct.

One of the most troublesome aspects of the open disciplinary proceedings provision is the fact that while it is intended to subject the alleged perpetrator to public scrutiny, it would also subject the victims to the same harsh public and media scrutiny. While the criminal justice system provides for some legal protections for participants in the process, if disciplinary proceedings were made open, these parties would have all the public intrusion involved in a criminal proceeding without the attendant protections.

Furthermore, the proposed law is unnecessary to accomplish its stated goal of alerting the campus about the types of cases and the outcomes of disciplinary proceedings. Many campuses, including Penn, publish regular reports to the community which detail the types of matters that are handled by disciplinary offices and their outcomes. These anonymous reports provide the community with an accurate picture of campus disciplinary activities without compromising the confidentiality of the process.

Campuses disciplinary offices are safe, professional places for students to report misconduct. It is very unlikely that victims of misconduct would continue to seek the help they need if they knew that, from the time they stepped into our offices, their matter would be available for review by any member of the public, including the student media.

I believe that this legislation would not add to safety on campus which is the stated goal of ACCRA. On the contrary, it would lead to the deterioration of the integrity and effectiveness of the disciplinary processes.

Thank you, Mr. Chairman, for the opportunity to testify today.

Senator SPECTER. Thank you, Ms. Goldfarb.

STATEMENT OF DOLORES A. STAFFORD, DIRECTOR, UNIVERSITY POLICE DEPARTMENT, GEORGE WASHINGTON UNIVERSITY

Senator SPECTER. Ms. Dolores Stafford, director of university police at George Washington University. The floor is yours, Ms. Stafford.

Ms. STAFFORD. Thank you. Good morning.

George Washington University is a large institution located here in the District of Columbia. My department is composed of 75 uniformed police officers, 12 administrators with various specialties, and 150 part-time students.

Let me address one issue up front. There seems to be an underlying belief that some institutions are hiding crime or purposely underreporting crime. This is simply not true.

Most people in my position take pride in developing a professional department whose members main priority is providing a safe and secure environment for students to learn and grow. In many ways the members of the GW community hold my department personally responsible for their safety. We accept that responsibility and that means that we have to do what is right and what makes sense in order to meet the expectations of the members of our campus community. We do not do this job simply because there is a law governing campus security.

The Campus Security Act of 1990 shook the campus law enforcement arena. Not only did institutions have to change the way they did business and who they hired into the security jobs, but security

took a front seat on most college campuses, not only in the eyes of the consumer, but in the minds of those working on college campuses. I must say that some senior officials were initially resistant to the changes, but 8 years later I am here to tell you that there has been a significant change for most of us in the security business. College administrators realize that we must use common sense as our guide.

The only way students can and will protect themselves is if we are continuously harping on the fact that crime can and does occur on college campuses. Students on college campuses have a general perception that they live in a bubble and that nothing will happen there. Our best crime prevention tool is using various mediums to saturate the campus with important security related information so that students will consistently take precautions to ensure their safety.

Effective crime prevention is not accomplished with a 1-hour program at the beginning of a student's freshman year. It is an ongoing effort. We need to keep this concern in the front of their minds not only while they are on a college campus, but for the rest of their lives.

That is why many of us in this business not only abide by the law, we exceed the expectations. For example, at GW we meet the requirements of the law by sending the compliance document to every member of the GW community, but we also publish the information in the student handbook. We publish weekly crime logs in the student newspaper and we post crime alerts in every building on campus after a serious incident. We not only publish the required statistics, we publish additional categories that are necessary to provide an overall picture of what is happening on campus. These are just examples of the crime prevention efforts on one college campus.

Of course, there are those institutions who are perceived to be doing things incorrectly, but most of the mistakes appear to be unintentional errors caused by differing interpretations of the law. We can resolve many of these problems if we develop clear guidelines regarding the specific expectations that should be met for each of the standards outlined in the current law. There are numerous areas of the current law that need further clarification. Some of these points are made in my written testimony which I would ask be submitted for the record.

Senator SPECTER. It will be submitted in the record.

Ms. STAFFORD. Thank you.

Any new legislation needs to balance what is right for the victims of campus crime, the students on campus, and the institutions. For example, it has been suggested by some that it might be a good idea to open campus disciplinary hearings and records. Many of the proponents of this idea are even college students. However, keep in mind that most of these students are associated with campus newspapers. These changes would certainly not be in the best interests of the general student body.

PREPARED STATEMENT

There are many possible changes to the law that would be beneficial to the members of the campus community at large, and we

should implement those changes without hesitation. As you review and possibly develop legislation regarding campus crime, I urge you to keep in mind, first, the best interests of the students and, second, the best interests of the institutions of higher education across the country.

Senator SPECTER. Thank you very much, Ms. Stafford.

[The statement follows:]

PREPARED STATEMENT OF DOLORES A. STAFFORD

REGARDING: H.R. 715—ACCURACY IN CAMPUS CRIME REPORTING ACT

Good morning, my name is Dolores Stafford. As the Director of the University Police Department for the George Washington University (GW), a position which I have held for 5 years, I administer the law enforcement program for one of the top ranked postsecondary institutions in the country. My department is composed of 75 sworn, uniformed police officers, 12 administrators with various specialties and 150 part-time student employees. The budget for police services at GW is approximately $3.5 million. I am also the University's Coordinator for the Sexual Assault Crisis Consultation Team. I deal with students who are victims of campus crimes, including sexual assaults, on a daily basis.

I currently serve as a member of the Government Relations Committee for the International Association of Campus Law Enforcement Administrators, a professional organization whose members manage campus police and security programs at more than 900 colleges and universities.

The Campus Security Act of 1990 requires institutions to notify the campus community about various security policies and procedures, to report the specified criminal offenses and to provide timely notice to the campus community regarding those crimes. I have submitted for the record several copies of the annual report on campus crime for the George Washington University and a copy of a recent timely notice warning posted in every building on campus.

Let me address one issue up front, there seems to be an underlying belief by some that institutions are hiding crime or purposely under-reporting crime. This is simply not the norm. The people responsible for security on college campuses have a great deal of integrity and many even feel personally responsible for reporting crime accurately. My colleagues and I in the campus security business want to work closely with the members of the Department of Education and the members of this committee to ensure that all students and their families are provided with accurate, meaningful information about campus security.

Implementing the Campus Security Act has taken time. After enactment in November of 1990, Congress amended the original Act on two occasions before it was implemented. The Department of Education published and sent three letters to institutions between March 1991 and July 1992 providing information about complying with the Campus Security Act. The final regulations were not published until July 1994. This delay in receiving complete and concise regulations and the initial difficulty in interpreting specific portions of the regulations greatly complicated the task we faced on campus.

According to the GAO report published in March 1997, "areas of difficulty (for institutions) included deciding how to include incidents reported to campus officials other than law enforcement officers, interpreting federal requirements for reporting sex offenses, and reporting data on hate crimes." This led to incidents where institutions were publishing incorrect numbers and according to the GAO report, some institutions were even over-reporting crime. The Department of Education had no experience with campus crime reporting. Its main focus is the administration of Federal financial aid programs. During the first few years, the Department of Education staffers assigned the task were in the learning stages. The Department has taken steps to improve its knowledge of the issues and staff there has begun to actively assist institutions by providing technical assistance.

An example of its recent efforts includes participation in a training session that I coordinated between the members of the Association of Campus Law Enforcement Administrators of Delaware, the District of Columbia, Maryland and Northern Virginia and three members of the Department of Education in March 1997. We had a proactive discussion that led the group to conduct a "self-review" which allowed us the opportunity to ensure that we were in compliance.

Several of the institutions found areas where they were misunderstanding or misinterpreting the language in the final regulations. For example, I was classifying

"hate crimes" as a separate category rather than identifying them under the appropriate classification of murder, forcible rape and aggravated assault as required by law. This error was certainly unintentional, and I was able to correct it because I received appropriate guidance from the members of the Department of Education. As a Campus Law Enforcement Director, I am grateful to the Department of Education for providing educational workshops and assistance.

H.R. 715, the Accuracy in Campus Crime Reporting Act would require numerous amendments to the current law. Some of the changes are reasonable and easily implemented and others are worrisome and potentially counter-productive. I would like to offer suggestions and comments for each of the proposed changes:

The proposed expansion to the list of persons (positions) responsible for providing crime statistics for inclusion in the institution's three year crime table creates some concerns which are the specific addition of "counselors" and "administrators". The original language of the Campus Security Act statute called for statistics which reflect reports to "campus security authorities or local police agencies", the Final Rule (as amended on June 30, 1995) expanded that to "local police agencies or to any official of the institution who has significant authority for student and campus activities". Therefore, it could be argued that the Final Rule went beyond the original intent of the legislation.

I would strongly recommend that "counselors" be removed from this definition. Students need to be able to seek professional assistance via counselors without fearing that the counselor will breach the student's right to confidentiality. I would also recommend that "administrators" be removed because this terminology is unreasonably ambiguous. For example, at GW, up to 3,000 employees could be considered "administrators". The rest of the proposed definition does not cause concern and will simply put the law in synch with the rules that implement it.

H.R. 715 would require the additional reporting of four categories of crime. The Uniform Crime Reporting Handbook includes definitions of the offenses of larceny, arson, simple assault and vandalism. These definitions are precise enough for police departments throughout the nation to interpret. Institutions should not have much difficulty in meeting this requirement.

The proposed language requires that each institution submit the report and requires the Department of Education to compile those statistics. This would be easily accomplished by institutions because we already compile and publish this information. The question for Congress is will you provide sufficient resources to the Department of Education to compile the statistics and whether this added responsibility will divert the Department from providing the appropriate level of technical assistance in implementing federal campus crime laws?

There have been accusations alleging that institutions are forwarding incidents of violations of drug, liquor and weapons laws to their internal judicial systems rather than "arresting" violators in an effort to keep the statistics down. I would disagree with this premise and would add that the majority of those institutions have historically referred those types of incidents to their internal judicial systems. There are many institutions, such as The George Washington University, that are in jurisdictions where these offenses are viewed as "minor offenses" by the local law enforcement agencies and therefore, they will not prosecute those incidents. We are faced with the reality that these cases are not going to be adjudicated through the courts, so we turn to the internal institutional disciplinary procedures as a means of addressing many of these types of violations.

That having been said, I do not believe that it is problematic for institutions to report "incidents of" drug, liquor and weapons laws violations. In fact, GW already reports the number of arrests and the number of incidents reported to our judicial affairs office. I do believe that the language should be clarified to include "persons arrested or referred for disciplinary action."

The proposed language requiring "open crime logs" is not problematic, in fact, I have been publishing our crime log in the student newspaper for the last four years. However, the requirement for the open crime logs to be available within twenty-four hours is unreasonable, specifically because the majority of schools do not have the appropriate administrative and/or support staff on duty over the weekends and on holidays. I would recommend that this language be changed to "be open to public inspection within no more than 72 hours of the initial report being made to the department.

H.R. 715 would delete subsection 485(f)(7)(C), which states that "nothing in this paragraph shall be construed to confer a private right to action upon any person to enforce provisions of this paragraph". The deletion of this language would create "open season" for litigation against institutions for even the smallest technical error. If this paragraph were to be deleted, it would be extremely harmful to every institution of higher education. It is imperative that this current language remain intact.

For example, if a University Police Officer erroneously classifies a Burglary as a Larceny, this would create a private right of action against an institution.

The aspects of the proposal that would require open campus disciplinary hearings and would exempt disciplinary records related to allegations of criminal activity from protection under FERPA has a potentially chilling effect upon the reporting of crimes such as sexual assaults. IACLEA's recent study of campus crime reports for the years 1994 and 1995 delved into the distinction between sex offenses committed by strangers and those committed by persons with whom the victims were acquainted. Significantly, 78 percent of the on-campus sexual assaults reported to the 585 U.S. institutions which participated in the survey involved persons who were acquainted. This proportion was the same for both 1994 and 1995, and reflects the significant progress which had been made among campus police and security units in bringing "date rape" cases into the open.

In my primary role in the police department and as the Coordinator of GW's Sexual Assault Crisis Consultation Team, I have dealt with many students who have been victims of sexual assault. The victim has lost the power in one of the most personal choices he/she can make. It is imperative that in dealing with someone who has been the victim of such an assault, the victim be "empowered" by allowing him/her to make his/her own decisions throughout the recovery process. In dealing with victims, it has always been my standard practice and now it is a requirement of Federal law to inform the victim of the option to pursue the case through the internal judicial process as well as taking action through the criminal justice system or both. In all but one case, the victims elected to use the on-campus proceedings to protect their privacy. They make this choice because they believe that the internal judicial system is the only viable route to justice in cases involving date rape and the judicial system affords the victim confidentiality.

If institutions lose the ability to offer acquaintance assault victims access to discreet internal hearing processes, I fear that the reporting of these crimes will decrease. When hearings are "open", the alleged rapist may bring friends, roommates, and classmates into the hearing room, intimidating alleged victims and witnesses. Moreover, campus newspapers will have access to records, printing names and circumstances that will ultimately succeed in silencing, not encouraging victims to report these crimes. This seems directly contrary to the intention of the original legislation. If the only forum you offer the victim is a public forum, the long-term result will be the continued presence on our campuses of sex offenders who might have otherwise been identified and dealt with accordingly.

In addition, I would like to recommend a change to the Campus Security Act that is not addressed in H.R. 715. I would recommend that the distribution deadline be changed from September 1 to October 1. Many institutions are heavily involved in student registration through the latter part of August, and, in some cases, continuing into early September. The distribution of the annual security report to all "current students" on or before the date of September 1 may not, therefore, reach all of the individuals who will actually attend classes during the fall semester at those institutions.

As you develop this legislation, I would urge you keep in mind the welfare of the victim of on-campus crime by removing the language from H.R. 715 that would require open campus disciplinary hearings and would exempt disciplinary records related to allegations of criminal activity from protection under FERPA. I would also urge you to remove the positions of "counselor" and "administrator" from the definition of those who are required to report crimes. Lastly, I strongly urge that you not create a private right of action against institutions. Such a right is an invitation to frivolous litigation which costs money and diverts the attention from efforts to reduce crime on campus. This would also hold our institutions of higher education to an unreasonable standard of perfection.

POSITION STATEMENT PREPARED AND SUPPORTED BY THE INTERNATIONAL ASSOCIATION OF CAMPUS LAW ENFORCEMENT ADMINISTRATORS

STATEMENT REGARDING H.R. 715—ACCURACY IN CAMPUS CRIME REPORTING ACT

The Crime Awareness and Campus Security Act was signed into law by President George Bush in November of 1990. This law was designed to increase the quantity and quality of "consumer information" available to prospective college students and their parents regarding criminal activity and security measures on the campuses of our nation's post-secondary institutions. By extension, it was anticipated that increased public awareness of campus crimes and security measures would lead colleges and universities to upgrade their campus safety programs in order to remain

"competitive" with their peer institutions. There is no question that the Crime Awareness and Campus Security Act has increased the public's awareness of the occurrence of crime on college campuses, but the degree to which that increased awareness has translated into enhanced campus security has yet to be measured. The U.S. Department of Education's regulatory interpretation of the law was slow in coming and has, in some respects, conflicted with the apparent intent of the original statute. A re-examination of the Crime Awareness and Campus Security Act is therefore appropriate and timely.

The bill [H.R. 715] which is now before you is described as having the effect of increasing the completeness, timeliness, and accuracy of campus crime statistic reporting. It would also codify specific methods of enforcement of the provisions of the Crime Awareness and Campus Security Act. In the view of IACLEA, the professional association which represents America's campus police and security administrators, H.R. 715 is a mixed bag. Some of the provisions of the bill would help to advance the intended goals of enhanced campus safety and increased crime awareness, while others would be decidedly detrimental. The following are our specific comments regarding H.R. 715, addressing the various elements of the bill in the order of their appearance in its text.

Insertion of "campus security or law enforcement; other campus officials (including administrators, deans, disciplinary officers, athletic department officials, housing officials, counselors) to whom crimes are reported; or local law enforcement" in lieu of "campus security authorities or local police agencies".

DISCUSSION

The statute called for annual tabulations of the numbers of specific categories of offenses which had occurred on campus and had been reported to campus security authorities or local police agencies. The term "campus security authorities" was not defined by the statute, but was eventually (April, 1994) defined by regulation to include "(1) A campus law enforcement unit, (2) an individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses, and (3) an official of the institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities". In related (January, 1995) regulatory language regarding the Family Educational Rights and Privacy Act [FERPA], the term "law enforcement unit" was defined to mean "any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution to—(i) enforce any local, State, or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law against any individual or organization other than the agency or institution itself; or (ii) maintain the physical security and safety of the agency or institution."

As originally enacted, the statistical disclosure requirements of the Crime Awareness and Campus Security Act were reasonably unambiguous. The numbers to be reported were to be derived from the sorts of "official sources" one might be expected to contact upon discovering or becoming the victim of a criminal act: the local police, the campus police or security agency, or some other campus office which had been "specified" by the institution as the place to report crimes. The picture became less clear during the negotiated rule making process, when the catch-all "any official other than a counselor" category was added. The Final Rule published in April 1994 muddied the waters even further by narrowly applying the term "campus security authority" only to the "timely warning" provision of the statue, and essentially rewriting the statutory description of the sources of campuses' annual crime statistics to include, in addition to the local police, "any official of the institution who has significant responsibility for student and campus activities". The upshot is, as reiterated in a Department of Education Dear Colleague Letter dated May 1996, that campus counselors are currently exempt from the requirement to "make timely warning reports to the campus community on certain crimes that represent continuing threat to students and employees", yet they, along with a host of other campus officials, are responsible for providing crime data for inclusion in the institution's annual security report.

The current crime statistic reporting "standard" is needlessly ambiguous, leading to endless questions about the validity of the published numbers. The preamble to the Final Rule published in April 1994 discusses the implications of the requirement that crime statistics are to be reported by "any official of the institution who has significant responsibility for student and campus activities", and states clearly that "the function of these administrators is not to determine authoritatively whether a

crime took place—that is the function of law enforcement professionals working within the criminal justice system—but, with respect to these regulations to report to the appropriate law enforcement personnel, either campus or local police, those allegations of campus crimes that the administrators conclude are made in good faith * * *. If the law enforcement personnel, upon further investigation, conclude that the allegations reported are not substantiated by the facts or the law, no campus crime need be disclosed as a statistic." It is further stated that "The occurrence of a crime on campus need not be disclosed to students and staff under these regulations unless the appropriate law enforcement officials conclude that the crime did occur with the same degree of certainty they would require for purposes of reporting under the FBI's Uniform Crime Reporting System."

The real-world question which arises repeatedly is, how does an institution deal with a situation in which an alleged on campus crime is "reported" to a campus official who is neither a member of the campus law enforcement unit nor otherwise specified by institutional policy as a person to whom such reports should be made—and the victim refuses to speak directly to a law enforcement professional or cooperate in any further investigation of the alleged incident? The situation is further clouded when the campus official to whom the "report" is made is functioning in a counseling capacity and the victim insists on anonymity. Are such unsubstantiated incidents supposed to be reflected in the annual campus security report? If there can be no professional investigation to determine their validity, must they be accepted at face value? Certainly no such cases would appear in the Uniform Crime Reports which police agencies file with the FBI, yet post-secondary institutions which exclude them from their annual security reports risk being found in "noncompliance" by the Department of Education.

SUMMARY COMMENT

The language change proposed by H.R. 715 would have the effect of codifying (one might say legitimizing) the disassociation of the term "campus security authorities" from the required 3-year tabulation of campus crime statistics which was effected by the Final Rule of 1994, but it would do nothing to correct the current ambiguity concerning the inclusion of data whose validity is unknown because no professional investigation could be undertaken.

RECOMMENDATION

Retain the current statutory language and instruct the Department of Education to abide by it. Codify the following definition of "campus security authority":

—(1) A campus law enforcement unit [as defined in 34 CFR Part 99 Section 99.8(a)(1)]

—(2) An individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses, including any criminal offenses which may be reported solely for purposes of disciplinary actions or proceedings.

Replacing the current crime category of "murder" with "homicide"; expanding the list of crime categories for which statistics are to be disclosed to include larceny, arson, simple assault, and vandalism.

DISCUSSION

Both larceny and arson are included among the eight "Part 1 Offenses" crime categories for which the FBI has historically maintained national data, with incidents of larceny being the most prevalent of all Part 1 offenses. Homicide (technically, "criminal homicide") is another of the FBI's traditional Part 1 offense categories (of which "murder" is a subset). IACLEA recommended in 1990 that all Part 1 offenses be included in an institution's campus security report, and we stand by that recommendation.

Simple assault and vandalism are two of a host of less-serious crime categories which have traditionally been classified as "Part 2 Offenses" by the FBI. In order to ensure validity and comparability among offense data from various campuses, it is essential that reports of this nature be filed with and investigated by local police agencies or "campus security authorities" (as defined in our foregoing recommendation).

RECOMMENDATION

With the noted editorial change to "criminal homicide" and the proviso that our previously recommended definition of "campus security authority" be codified, the amendment proposed by H.R. 715 should be enacted.

Amending "arrests for" alcohol, drug and weapons offenses to "incidents of" those offenses.

DISCUSSION

As was indicated in testimony on behalf of IACLEA in 1990, statistics regarding arrests for alcohol, drug and weapon violations are more indicative of the level of pro-active law enforcement activity within a community than they are of the "crime rate". It has become clear, since the enactment of the Crime Awareness and Campus Security Act, that these arrest numbers are of especially limited utility in many campus settings. Many campus security units at smaller institutions lack formal "sworn" authority to effect arrests, and the local police are infrequently "called in" to respond to campus alcohol violations. In many larger cities, simple underage possession of alcohol—although clearly illegal—is considered to be of such a minor nature that formal charges are rarely placed (on or off campus) because more serious cases would inevitably "bump" them from the court calendar. Colleges and universities have increasingly recognized the serious impact which high-risk drinking, in particular, has on the campus climate, and have referred large numbers of alcohol violators to their internal disciplinary systems. Although some of these same violators may have been formally "arrested", most would not appear in the tallies currently required by the Crime Awareness and Campus Security Act.

The proposed change from "arrests for" to "incidents of" alcohol, drug and weapons violations is not the recommended solution, however, if comparability of data is the desired end. It would not be at all unlikely for one "incident" to result in the placing of charges (either on campus or, in the case of "arrests", through the courts) against multiple individuals. The best measure of institutional efforts to combat the problems of alcohol, drug, and weapons violations would be a count of "persons charged" for those offenses.

RECOMMENDATION

Amend by striking "arrests" and inserting "persons arrested or referred for disciplinary action".

Routine submission of annual campus crime statistics to the Secretary of Education, and publication of a complete tabulation of that data by the Department of Education.

DISCUSSION

The Crime Awareness and Campus Security Act has given prospective students and their parents easy access to a wealth of information about the campus security programs of the schools which they may be considering. It is the details of those programs, more so than raw crime statistics, which are of the most value when assessing the climate of a particular campus and that institution's commitment to personal safety. Compliance with this proposed change would not place any significant burden on educational institutions, but it would result in increased work within the Department of Education and the end product (a list of crime statistics for every institution in the nation) would be of limited value to consumers. In order to better place campus crime statistics into their proper context, they should be reported to the FBI and tabulated in association with the crime statistics for the appropriate host jurisdiction.

RECOMMENDATION

Direct the Department of Justice to collect campus crime statistics and include them in appropriate tables within the annual publication Crime in the United States.

Accuracy of statistics to be "certified" by each official charged with their compilation.

DISCUSSION

This item relates directly to the first point addressed in this position statement regarding H.R. 715—the definition of "campus security authority". Under the existing regulatory language, or the working proposed in H.R. 715, there are simply too

many "campus officials" who could potentially be determined to be acting as "security authorities" for any meaningful certification of accuracy to take place.

RECOMMENDATION

With the proviso that our previously recommended definition of "campus security authority" be codified, the amendment as proposed by H.R. 715 could be enacted.

Daily crime logs to be kept by the campus police and security unit.

DISCUSSION

Several states currently have some form of open records laws which relate, either generally or specifically, to campus police "incident logs". The content requirements of such logs are generally consistent with the data elements set forth section 2(e)(4)(A) of H.R. 715—as are their applicability specifically to campus police or security units. The suggestion [in section 2(e)(4)(B) of H.R. 715] that names-of victims, witnesses, or non-arrested/cited suspects be included unless otherwise prohibited by law is a recommendation of questionable merit. Furthermore, there is little value in passing legislation which says that an institution "may" do something unless it is an act which is prohibited by law—but imposes no requirement to do so. The proposed requirement [section 2(e)(4)(C)(i) of H.R. 715] that crime log information be open to public inspection within 24 hours of the initial report being made to the department, a (presumably other) campus security authority, or other campus official is unreasonable on two levels. Some level of supervisory review of the log information is required to ensure that reported incidents are appropriately classified and that any personally identifiable information which is protected from disclosure is not inadvertently released. In many campus police and security units, this level of supervisory review is not available on weekends or holidays. Secondly, the state laws upon which this proposed amendment have been modeled refer specifically to criminal incidents which have been reported to the agency which is responsible for maintaining the log. It is unreasonable to hold the police or security unit responsible for inclusion in its log within a certain time frame of an incident which was reported to some other office or person within the institution. This is yet another example of the lack of clarity which has resulted from the present, overly broad regulatory definition of "campus security authority".

Section 2(e)(4)(C)(ii) of H.R. 715 is drawn from a current Virginia statute, and provides valuable clarification of circumstances in which it may be operationally necessary to defer the inclusion of a specific incident in a public log. Section (e)(D) is unnecessary, however. Members of the public typically gain access to a police incident log by personally appearing at the police station and reviewing it on site. Some institutions have elected to post electronic versions of their crime logs on campus computer bulletin boards and/or the Internet. Such pro-active measures go well beyond any reasonable minimum requirement for the keeping of a daily log, and should be encouraged—but in no way limited by the Crime Awareness and Campus Security Act. The language proposal in H.R. 715 would only permit such initiatives if they were "nearly perfect", limiting such electronic information dissemination to only the most sophisticated institutions.

RECOMMENDATION

Enact section 2(e) of H.R. 715 with the following modifications:

—Delete proposed subsection (4)(B) in its entirety.

—Within proposed subsection (4)(C)(i), delete "within 24 hours of the initial report being made to the department, a campus security authority or other campus official" and replace with "during normal business hours".

—Delete proposed subsection (4)(D) in its entirety.

Deletes the current section which states "Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph."

DISCUSSION

The specific intent of this proposed change is unclear. It's removal would not necessarily create a private right of action to enforce the provisions of the paragraph, but it would appear to invite litigation on the issue. The Department of Education currently endeavors to respond to citizen complaints of alleged noncompliance with the Crime Awareness and Campus Security Act in a systematic manner. While there may be room for the improvement of the current process, it would seem to offer the greatest promise of consistency over time.

RECOMMENDATION

Retain the existing statutory language in this section.
Opening campus disciplinary proceedings and records to the public.

DISCUSSION

The essence of section 2(g) of H.R. 715 is that both campus disciplinary proceedings involving alleged criminal misconduct and the records of those proceedings would be open to public participation and review. Section 3 of H.R. 715 would amend FERPA to remove disciplinary records regarding allegations of criminal misconduct from the category of "education records"—thus facilitating the public access provided for in section 2(g). These proposed changes would have a potentially significant chilling effect on the reporting of campus sexual offenses. An IACLEA study of campus crime reports for the years 1994 and 1995 delved into the distinction between sex offenses committed by strangers and those committed by persons with whom the victims were acquainted. Significantly, 78 percent of the on-campus sexual assaults reported to the 585 institutions which participated in the survey involved persons who were acquainted. This high proportion reflects quite positively on the progress which has been made among campus police and security units in bringing "date rape" cases into the open. A key factor in addressing date rape on college and university campuses has been the availability—for the many victims who balk at undertaking a criminal court proceeding—of a viable, confidential remedy through the venue of the campus disciplinary system. Opening these proceedings to the public would undoubtedly have the effect of diminishing campus sex offense statistics, not because there would be fewer assaults—there would simply be fewer reports.

The criticism that not all cases of internal disciplinary action are currently reflected in institutions' annual security report statistics would effectively be addressed through the definition of "campus security authority" previously proposed in this position statement:

—(1) A campus law enforcement unit [as defined in 34 CFR Part 99 Section 99. 8(a)(1)]

—(2) An individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses, including any criminal offenses which may be reported solely for purposes of campus disciplinary actions or proceedings.

RECOMMENDATION

Delete sections 2(g) and 3 of H.R. 715 in their entirety.
Establishing a specific method of enforcement of the provisions of the Crime Awareness and Campus Security Act.

DISCUSSION

The proposed suspension of a minimum of 1 percent of an institution's federal financial assistance funds for each separate count of non-compliance would diminish the discretionary authority of the Department of Education. The Department of Education currently endeavors to hold institutions responsible for errors or omissions related to the Crime Awareness and Campus Security Act in a systematic manner. While there may be room for the improvement of the current process, its flexibility would seem to offer the greatest promise of achieving consistency over time. Rather than imposing mandatory financial penalties, the Department of Education would better be encouraged to publish and distribute a "compliance guide" which puts all of the current information and interpretations relative to the Crime Awareness and Campus Security Act together in a single location. The Department's Internet web site would be a most appropriate tool to accomplish this end. The Department of Education should also be directed to periodically update its publication regarding exemplary campus security policies, procedures, and practices, and to disseminate that revised information to all postsecondary institutions.

RECOMMENDATION

Delete the text of Section 4 (Enforcement) of H.R. 715 in its entirety, and substitute the following:

Section 4. Technical Assistance.

Section 485(f)(20 U.S.C. 1092(f)(4)(B)) is amended by adding: "Such exemplary practice identification and information dissemination shall be repeated on a five-year cycle to ensure that institutions are kept abreast of reasonably current trends."

STATEMENT OF DAVID A. LONGANECKER, ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, U.S. DEPARTMENT OF EDUCATION

Senator SPECTER. We now have Dr. David Longanecker from the Department of Education. The floor is yours, Mr. Longanecker.

Mr. LONGANECKER. Thank you, Mr. Chairman. I appreciate the opportunity to be with you.

I would like to have my complete remarks included in the record.

Senator SPECTER. They will be made a part of the record.

Mr. LONGANECKER. I will try to respond to the specific question that you raised to the Secretary in my comments.

Certainly the crimes that were detailed here today demonstrate the importance of our being on top of campus security and improving campus security in this country, and we believe that the Campus Security Act is an important tool in helping to do that.

Senator SPECTER. Are you satisfied with the responses which have been made by the universities to the act?

Mr. LONGANECKER. In general, yes. As my testimony will demonstrate, this is a new law that campuses are having some difficulty learning, but we are convinced that there is a genuine commitment to doing so.

Our goal is to administer the Campus Security Act in a fashion that assists these schools in providing a safe environment in which to learn and live and to make sure that they are well informed about security at the particular institution they attend or that they are seeking to attend.

The Campus Security Act became law in 1990 and was amended several times in subsequent years as a result. Though we began notification activity at the Department shortly after its enactment, it has taken some time for the law to fully take hold, with our final regulations not actually being adopted until April 1994.

I am not going to go into the details of the act. You are familiar with those, Mr. Chairman, but I would like to talk a little about those details that pertain to the Department, our responsibilities and what we have done.

One of the requirements was to disseminate exemplary campus security practices, which we did in a 1994 publication entitled, "Campus Security: A First Look at Promising Practices." I might also mention that our Office of Safe and Drug-free Schools has also established an expert panel to identify more current promising and exemplary practices programs in the area of sexual and racial harassment on campus, and we expect additional panels on crime prevention in the future. Much of our focus is in fact on crime prevention.

The act also requires the Department to prepare a report on campus crime statistics which the NCES completed last year. We have distributed over 16,000 copies of that publication.

But clearly the most important responsibility we have is to ensure compliance with the act. The Department takes this very seriously. Just like the institutions, it took some time to gain the ex-

pertise on how to best pursue this efficaciously, but we now have a quite robust approach to working with the institutions to achieve compliance.

Our efforts have included periodic notification to the schools and their independent auditors and to others of their responsibilities under the law and providing technical assistance to schools on compliance requirements.

We also have a discipline process for examining compliance. Annual compliance audits done by independent auditors must certify compliance with all title IV regulations, including compliance with the Campus Security Act, and we have had a number of noted violations through that process.

Our program reviewers routinely review Campus Security Act compliance when they conduct program reviews.

And we examine all complaints filed against an institution alleging noncompliance to determine what the appropriate actions would be.

PREPARED STATEMENT

Our staff have been trained in each of the regions to specifically address issues regarding campus security. It did take us some time to develop this expertise because this was a new area of responsibility.

[The statement follows:]

PREPARED STATEMENT OF DAVID A. LONGANECKER

ENFORCEMENT OF CRIME AWARENESS AND CAMPUS SECURITY ACT (CSA) AND EFFORTS TO MAKE COLLEGE CAMPUSES SAFER

White House Hate Crimes Conference.—President Clinton, Secretary Riley and other members of the cabinet met with members of the public to address the problem of Hate Crimes. This conference included a session moderated by OMB Director Franklin Raines on Hate Crimes on College Campuses. The conference was held on November 10, 1997.

Violence against women letter.—Secretary Riley, Secretary Shalala and Attorney General Reno sent a letter to all college presidents (not just Title IV schools) about resources available to assist their efforts in reducing violence against women on college campuses. This letter was sent on September 6, 1996.

Secretary speech.—Secretary Riley gave a well-received speech at the 1995 IACLEA convention in Philadelphia regarding campus safety.

Secretary on "Larry King Live."—Secretary Riley appeared on "Larry King Live" in 1994 with Connie Clery and an IACLEA (campus police organization) representative to discuss campus security issues.

Secretary meeting.—Secretary Riley met with consumer groups and IACLEA representatives in 1995 regarding campus safety.

Web page.—A World Wide Web page is available to provide information to students, parents and schools regarding Department efforts to enforce CSA and efforts to make campuses safer. The web address is: http://www.ed.gov/offices/OPE/PI/security.html

Dissemination of exemplary practices.—The Department published a 49 page document titled "Campus Security: A First Look at Exemplary Practices" in September 1994. Over 7,000 of these were sent out and it was available for purchase from GPO. This publication is available on the new web page.

Campus crime report.—The congressionally-mandated Campus Crime Statistics Report was released on February 25, 1997. The Office of Postsecondary Education sent out over 16,000 copies to postsecondary institutions. The National Center for Education Statistics distributed an additional 16,000 copies. The report is available on the Department's world wide web page and is also available for purchase from the Government Printing Office.

Dissemination of acquaintance rape publication.—The Higher Education Center for Alcohol and Other Drug Prevention, with Department funding, published a guide

in the summer of 1996 entitled "Preventing Alcohol-Related Problems on Campus: Acquaintance Rape."

Informing students and parents through student guide.—The Department has included information in the Student Guide to Financial Aid Programs highlighting how to obtain Campus Security reports and how to lodge complaints of noncompliance with CSA. Over 9 million of these guides are disseminated each year.

Program participation agreement.—All schools must certify in the Program Participation Agreement that they are complying with CSA. This was executed in the summer of 1991.

Negotiated rulemaking.—CSA regulations were subject to Negotiated Rulemaking. Throughout the process of developing the implementing regulations for CSA, extensive outside input was solicited and incorporated into the regulations.

Coordination with FBI.—Department staff coordinated CSA regulations with the FBI, especially with regard to Hate Crimes Statistics Act, schools' use of the FBI's Uniform Crime Reporting procedures, and other issues. This is an ongoing activity.

Dear colleague letters.—Four letters have been sent to schools regarding institutional responsibilities under CSA. (March 1991; August 1991; October 1992; May 1996).

Program reviews.—Program reviewers are directed to check compliance with all laws and regulations, including CSA. If the program reviewers have reason to believe that the institution is not in compliance, they look deeper into the issue.

Consumer complaint procedure.—The May 1996 Dear Colleague Letter refers individuals with complaints of noncompliance to the Directors of the Department's Regional Offices. The letter included a list of names and phone numbers of the regional offices.

Focused program reviews.—Valid complaints will trigger a focused program review. Six formal complaints have been received to date.

Supplemental guidance to program reviewers.—The Department issued supplemental guidance to program reviewers detailing how to check compliance with CSA. This guidance was issued in September 1996.

Compliance audits.—Outside auditors conducting compliance audits are directed, by the Audit Guide, to three places where information about CSA is located, and told to assure schools compliance with these laws and regulations: CFR 668 (and other sections), which contains the CSA regulations; Dear Colleague Letters, of which 4 have been issued about CSA; and, the Student Financial Aid Handbook, which contains extensive information about CSA.

Explicit inclusion in audit guide.—The Inspector General, with the encouragement of the Secretary, included explicit language regarding checking compliance with CSA in the Audit Guide. This is expected to raise the awareness of the CSA requirements in the audits that are performed for every school that participates in the Title IV Student Financial Assistant Programs. The revised Audit Guide was issued in July 1997.

Grant program to combat drugs and violence.—The Department's fiscal year 1996 Drug and Violence Prevention Grant Program had an invitational priority for proposals dealing with violence against women on college campuses.

Teacher education in school mediation.—This FIPSE project awarded funds to Goucher College. The project develops, in partnership with 20 Baltimore City Public Schools, a program of conflict mediation designed to reduce violence in the schools. Three teachers from each school will be trained to implement programs of mediation in their schools. Forty students from each school will be trained and used as peer mediators.

Conflict Mediation Program.—This FIPSE project awarded funds to the University of California-Los Angeles. The project establishes a program to help the campus community conflict prevention and mediation deal with diversity-related tensions. Students, faculty, and staff are trained in mediation and conflict resolution, and, working as teams, use this approach to prevent and intervene in diversity-related conflicts in various campus settings and in the local community.

Mentors in violence prevention project.—This FIPSE project awarded funds to Northeastern University. The project delivers programs on nine campuses designed to help males better understand what constitutes sexual violence and rape; and to assist women and men to intervene in situations of risk. The programs will specifically target groups of males in residence halls, in fraternities, and on athletic teams.

Dispute resolution and diversity multimedia packages.—This FIPSE project awarded funds to Carnegie Mellon University. The project develops two interactive multimedia packages to help students learn dispute resolution skills. The first package will teach basic dispute resolution skills, and the second will teach students to apply the skills in culture, race, and gender-based conflicts on a campus. The materials developed in this project will be used in a variety of settings, including numer-

ous courses and student life activities. The project will look at classroom rapport as a measure of the change in campus climate caused by the videodiscs.

Regional office training.—Department Headquarters' staff provided training to regional office staff during scheduled conference calls about enforcement of CSA regulations in 1991, 1992, and 1994.

Technical assistance—IACLEA Convention.—The Department sent a representative to the IACLEA (campus law enforcement organization) convention in 1993 in Seattle to provide assistance and training with CSA.

Technical assistance—IACLEA Convention.—Department staff participated in a teleconference at the IACLEA regional conference regarding CSA and FERPA questions in 1995.

Technical assistance—AACRAO Conventions.—The Department sent a representative to several regional and national AACRAO (Registrars and Admission Officers) conventions in 1994 to provide assistance and training about CSA.

Technical assistance—NASFAA Convention.—The Department sent a representative to the NASFAA annual convention to provide assistance with CSA in 1994.

Technical assistance—Annual Campus Crime Conferences.—The Department sent a representative to the annual Campus Crime Conference convened at Towson State University to provide assistance and training about CSA in 1994 and 1995.

Technical assistance—Virginia State Convention.—The Department sent a representative to the annual Virginia State Higher Education Association Crime Prevention convention to provide assistance and training about CSA in 1993.

Technical assistance—schools.—The FBI Uniform Crime Reporting Handbook was sent to all schools to assist in complying with CSA in 1994.

Technical assistance—informal.—The Department has provided extensive technical assistance to schools with questions about implementation of CSA.

Technical assistance—customer support.—The Department's Customer Support Branch has been trained to provide technical assistance to schools with questions regarding CSA. The May 1996 Dear Colleague Letter refers schools to Customer Support for technical assistance. They have received 165 calls for assistance since May 1996.

Cultural awareness.—This FIPSE project awarded funds in 1997 to CUNY, Queens College to help integrate freshman—especially recent immigrants—into the Queens community and foster tolerance and learning of varying cultural backgrounds.

Curriculum development.—This FIPSE project awarded funds in 1997 to Fisk University in order to revamp their core curriculum to emphasize multicultural studies, cultivate an eagerness to give critical attention to unfamiliar ideas, and develop students' capacity for critical thinking.

Student values multimedia package.—This FIPSE project awarded funds in 1996 to Ball State University to school students on ethical decision-making, values clarification, the consequences of cheating and risk recognition and reduction through a multi-media program.

Faculty development.—This FIPSE project awarded funds in 1996 to California State Polytechnic University, Pomona to educate teachers about Asian culture so that they may be better attuned to the needs of minority students and help them transcend cultural boundaries to attain academic success.

Research grant.—This FIPSE project awarded funds in 1996 to the Coalition of Christian Colleges & Universities to assess how colleges and universities influence values.

Curriculum development.—This FIPSE project awarded funds in 1996 to Tufts University to develop an interactive multimedia simulation of the criminal sentencing practice in American felony courts. This program exposes students to "extra-legal" influences—such as race or gender of the defendant—and how they affect judicial outcomes.

Curriculum development.—This FIPSE project awarded funds in 1995 to the Atlanta College of Art in order to help students understand the dynamics of cultural encounters and adapt a more inclusive narrative of history.

Sensitivity training.—This FIPSE project awarded funds in 1994 to the University of Central Florida. Focusing efforts on student athletes, the program addressed growing concerns regarding issues of race, gender and ethnic differences on college campuses.

Program development.—This FIPSE project awarded funds in 1994 to Colgate University in order to establish an Office of Intercultural Resources (OIC) to develop, support and implement programs designed to build bridges between international and multicultural programs.

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Sensitivity training.—This FIPSE project awarded funds in 1994 to Stanford University (Medical School) to train students to deal effectively with acts of sexism and gender insensitivity and increases the sensitivity of those in leadership positions.

Community activism.—This FIPSE project awarded funds in 1994 to the Oregon Coalition Against Domestic & Sexual Violence in order to train and supervise students to assist domestic violence victims with temporary restraining orders, enable students to observe how criminal and civil cases involving issues of domestic violence are handled by the legal system, and recruit attorneys to do pro bono cases dealing with domestic violence.

Research grant.—This FIPSE project awarded funds in 1993 to the Center for Women Policy Studies in order to develop and disseminate a classroom report on gender discrimination, the effects of race and sex bias in the classroom, and provide recommendations and strategies for improving the learning climate.

Curriculum development.—This FIPSE project awarded funds in 1993 to Huston-Tillotson College, a historically Black college to develop an honors program with a focus on Mexican-American/African-American culture.

Faculty development.—This FIPSE project awarded funds in 1993 to Keene State College help faculty develop new approaches to learning which expose students to information from more diverse perspectives.

Program development.—This FIPSE project awarded funds in 1993 to the University of Minnesota to promote a greater sense of community by coordinating extracurricular services with academic experiences, affirm diversity within the campus and provide more opportunities for out-of-classroom association among faculty and students.

Dissemination of alcohol related crimes publication.—The Higher Education Center for Alcohol and Other Drug Prevention, with Department funding, published a guide in their "Preventing Alcohol-Related Problems on Campus" series on both vandalism and impaired driving.

Institutional recognition.—In March of 1998, the Department's sub-panel on the Prevention of Sexual and Racial Harassment and Violence Against Students in Higher Education will announce a new recognition program for institutional initiatives that confront these issues.

Technical assistance.—In October of 1998, the Department will host the 12th Annual National Meeting on Alcohol, Other Drugs and Violence Prevention. At this meeting, institutions that have initiated "exemplary" programs combating these problems will share their experiences and insights.

CAMPUSES

Senator SPECTER. Mr. Longanecker, is there any doubt on the definition of campus under the statute that it would include the sidewalks within the university?

Mr. LONGANECKER. Generally the issue of campus is one of the foremost difficult areas that we have found campuses are having a difficult time with, and it is a particular issue for an urban institution like the University of Pennsylvania. The law says that the definition of campus is——

Senator SPECTER. I know what the law says. I have the statute before me.

Mr. LONGANECKER. Yes.

Senator SPECTER. My question pending to you is on a sidewalk——

Mr. LONGANECKER. That is right. A sidewalk and a street are not——

Senator SPECTER. Excuse me. Excuse me.

Mr. LONGANECKER. I am sorry, sir.

Senator SPECTER. Is there any doubt that a sidewalk is part of the campus?

Mr. LONGANECKER. Yes; the law explicitly says it is not.

Senator SPECTER. Well, what provision of the law does that?

Mr. LONGANECKER. It says property that is owned and controlled by the university. The university does not own or control public lands.

That may be an area we should examine because one could say those properties that are wholly contained within the parameters of a campus should be considered part of the campus.

Senator SPECTER. I am not sure you are right about that. If there is a defect in the sidewalk, if there is snow on the sidewalk, the property owner adjacent is liable for control for those purposes.

Mr. LONGANECKER. Well, you are certainly more expert in that area of the law.

Senator SPECTER. I may be about sidewalks generally.

Mr. LONGANECKER. Our interpretation of the law is that those are publicly owned, that those are not university owned and controlled and——

Senator SPECTER. I do not know that is so. The public has an easement to walk over sidewalks, but when a sidewalk is within the campus of the university, if you make the distinction that the crime has to be reported if it is on the grass but not reported on the sidewalk, I do not think you are right about that.

But if there is a doubt about it, we can change the law.

Mr. LONGANECKER. Yes; clearly there is a doubt about it because you and I clearly differ on our interpretations.

Senator SPECTER. I do not know that our differing interpretations shows a doubt about the law, but we can change the law.

Are you saying to me that the Department of Education is interpreting the statute to exclude sidewalks?

Mr. LONGANECKER. That would be correct.

Senator SPECTER. OK. That is good to know because that is something that I will try to change so there is no doubt about it.

There is a specific issue arising as to the University of Pennsylvania on the food court. It is a building owned by the university. There are university functions within the building. Do you take the position that if a crime occurs in the food court within the overall territorial confines of the university, that that is not on the campus?

Mr. LONGANECKER. That would be correct. In that particular case, that food court is contiguous but not on the specific campus. The university property, again using the definition in the law——

Senator SPECTER. Contiguous but not on, but underneath. There are university functions in the building on top of——

Mr. LONGANECKER. One of the requirements of the law is that it be used in a manner consistent with the educational mission of the university. The food court there is a general food court available to the entire community, it is our understanding, and therefore was not considered to be part of the university for this purpose.

Senator SPECTER. Well, the Pennsylvania Superior Court took up the issue of campus and said it was not limited—this is beyond my own interpretation—to education and residential grounds, but also including commercial property of a college or university used for investment purposes. Are you familiar with the case of Commonwealth versus Mitchell?

Mr. LONGANECKER. No; I am not.

Senator SPECTER. Well, I will make it available to you. I would like you to take a look at it because I think it is fair to say that there is a sharp disagreement between this committee, and I think the Congress, with the interpretation the Department is making.

Have you issued a regulation which illustratively excludes sidewalks from the campus?

Mr. LONGANECKER. We have. I would need to get back to you on explicitly what the regulation is. I believe so.

Senator SPECTER. Mr. Clery, I believe you want to make a comment there.

Mr. CLERY. Yes; I wanted to make a comment coming from the Pennsylvania area, and the University of Pennsylvania did report 100, I think, armed robberies because it was on streets that they exclusively patrol, is my understanding, by their police. I think that that would be to your point that that is part of the campus. Why are they patrolling areas where students congregate and use regularly? You have to cross the street to get to the library and you have to cross the sidewalk. I think it is a lot of sophistry very frankly and it is violating the spirit of the law.

Senator SPECTER. Do you care to comment, Mr. Longanecker?

Mr. LONGANECKER. Please, if I might. In defense of the University of Pennsylvania, what I believe they have tried to do in their patrolling is to assure that there are additional patrols in the areas proximate to campus that are used significantly by students. Now, think of the idiocy, if you will——

Senator SPECTER. The what?

Mr. LONGANECKER. The idiocy in providing a disincentive for them to try to patrol areas clearly outside their area of purview but where they are trying to provide protection to the students.

What we want to do is to provide greater prevention efforts. We want to increase security, and I think we would love to work with you on trying to find a more clear definition of campus.

Senator SPECTER. Are you saying it would be a matter of idiocy to call on the university to report crimes on the streets within their campus?

Mr. LONGANECKER. No, no; absolutely not.

Senator SPECTER. What was——

Mr. LONGANECKER. They patrol areas——

Senator SPECTER. Excuse me. Excuse me. What was the idiocy reference?

Mr. LONGANECKER. Requiring them to report crime in the entire patrol area of the campus security of the University of Pennsylvania which runs blocks and blocks off campus.

Senator SPECTER. Well, we are not talking about that. I do not think Mr. Clery is talking about that. Mr. Clery——

Mr. LONGANECKER. That is precisely what he said.

Senator SPECTER. Excuse me. No; that is not what he said. What did you say, Mr. Clery?

Mr. CLERY. I said that sidewalks and streets that intersect the campus are really part of the campus. The college that I went to was out in a rural area and I had to cross the street and a sidewalk to get from my dorm to the library. Also, that their campus security patrol, in conjunction with the Philadelphia police, areas that the students use, and I would consider that part of life of

going to the University of Pennsylvania. They had 100 armed robberies there that they did not report.

Senator SPECTER. That is what I understood you to say. I start with the sidewalk because it seems to me that that is the clearest proposition.

Do you consider it a sidewalk if you move from Walnut Street, up to College Hall on a sidewalk that goes through the university, Mr. Longanecker?

Mr. LONGANECKER. I think we ought to have a serious discussion about that. I do not think there would be much disagreement with that. Currently we would not consider it as a part of the campus.

Senator SPECTER. Mr. Longanecker, we are having a serious discussion about it.

Mr. LONGANECKER. Yes.

Senator SPECTER. That is what we propose to do at this hearing.

Mr. LONGANECKER. Yes; pardon me, but I do not think the Department would disagree, but the law from our interpretation of it currently does. We enforce the law——

Senator SPECTER. You do not think that the Department would disagree but the law that the Department interprets disagrees?

Mr. LONGANECKER. We do not interpret law. We follow law.

Senator SPECTER. It seems to me you are doing a lot of interpreting, Mr. Longanecker.

Let us come back to the streets and the highways. If you have a highway, if you have Walnut Street and you move from the library, which is immediately south of Walnut. Immediately west of 34th, you have the law school, which is on Chestnut, and you have Sampson Street—take that as a street aside from Walnut Street, which is very narrow. It is traveled but very lightly. You have the sidewalk there between two university buildings, would you say that there is not an obligation to report campus crime on the sidewalk?

Mr. LONGANECKER. That is how we would interpret.

But let me also say that I think that is an area that logically we should address. That is different than——

Senator SPECTER. That is what I am trying to do.

Mr. LONGANECKER. Yes. No, I agree.

That is different than the campus security patrolling some blocks away, and if I——

Senator SPECTER. We are not talking and Mr. Clery was not. If you take the college campus very distended, that is not what is being questioned here. What is being questioned here is a sidewalk which is right next to the grass and that is leading right to the building. Then you have a road. You have 36th Street actually closed off. Now, cars can go through there, but it is actually closed off.

I do not want to get involved with you on every inch of the grounds, but I am just a little surprised to hear you say that it would be idiocy to classify——

Mr. LONGANECKER. I did not mean to imply that.

Senator SPECTER. Just a minute. Just a minute, please, Mr. Longanecker. Just a minute, please.

Mr. LONGANECKER. Sure.

Senator SPECTER. I am just a little surprised to hear you say it would be idiocy to impose an obligation on the college to do a reporting on areas which they patrol because that would discourage patrolling. I am just a little surprised to hear you use language like "idiocy" when we are trying to find out what your interpretation is where I find it to be extremely restrictive, not in accordance with the letter of the law, let alone the spirit of the law.

But the question here which has been addressed broadly has been how you reduce campus crime which is very vital and very important, but the thrust of college reporting of crime is to tell people what has happened. Now, you may reduce crime if people know what has happened and they can protect themselves.

But the reporting requirement is just a little different from reducing crime. Your patrols reduce crime. The police reduce crime by being on the spot. You reduce crime by taking appropriate prosecutorial action if somebody seriously assaults a young man like Mr. McKee, but it is a little different when you are talking about reporting. That is a very different proposition.

The University of Pennsylvania got into a rhetorical dispute with the Philadelphia Inquirer. The president of the university, Dr. Roden, was reported as saying that they found no evidence that the university was hiding anything or distorting campus crime. Ms. Goldfarb, do you know if that is an accurate quotation from Dr. Roden?

Ms. GOLDFARB. With your permission, Mr. Chairman, Mr. Peter Erichsen, who is the general counsel of the university, is here and could probably speak to that question better than I could. I do not know that that is a quote from Dr. Roden.

Senator SPECTER. Mr. Erichsen, do you know the answer to that?

Mr. ERICHSEN. I believe it is an accurate quote, Senator.

Senator SPECTER. With respect to the issue of the hospital of the University of Pennsylvania, Ms. Goldfarb, is there any question that should have been included as part of the university's report?

Ms. GOLDFARB. I do not think there is any question about that, but again Mr. Erichsen can answer that question better than I can since I am here to talk about——

Senator SPECTER. OK, Mr. Erichsen. Any question about the inclusion of the hospital of the University of Pennsylvania as part of the report?

Mr. ERICHSEN. There is no question that we are going to accede to the Department. Obviously there was some question in our mind beforehand, so we did not include it.

Senator SPECTER. There was a question in your mind beforehand. So you considered the hospital of the University of Pennsylvania and omitted it?

Mr. ERICHSEN. No, Mr. Chairman. I think it would be safer to say the issue was not considered as seriously as it might have been when we were first seeking to comply with the law.

Senator SPECTER. I do not understand that answer, Mr. Erichsen. Did you exclude the hospital of the University of Pennsylvania after thinking about it or did you just not think about it or what?

Mr. ERICHSEN. It is impossible for anybody, much less me, to reconstruct all of the deliberations that went into initial compliance, Mr. Chairman.

Senator SPECTER. We need one more witness from Penn.

Mr. ERICHSEN. There is some evidence that consideration was given. It is not clear that it was considered as carefully as it might have been.

Senator SPECTER. But, Mr. Longanecker, do you think Congress should consider adding penalties for failure to have accurate reporting under this Campus Security Act?

Mr. LONGANECKER. Mr. Chairman, we have the authority today to levy fines or take more serious actions.

Senator SPECTER. Have you done that at all?

Mr. LONGANECKER. We have not done so. Because this is new law, we have been leading with a carrot and following with a stick.

Senator SPECTER. Where have you followed with a stick?

Mr. LONGANECKER. We have not yet because we have not found an institution that was unwilling to work with us to come into compliance, nor have we found ones that we felt were intentionally in noncompliance.

And if I might just respond earlier, I owe you and Mr. Clery an apology. That was a terrible choice of words, and for lack of something else, I used it and I apologize for that. Mr. Clery and his wife are heroes of mine. I mean, I do not think there are people who have demonstrated the power that an individual can have in basically changing law for public good. So, I want to personally and publicly apologize.

Senator SPECTER. I thank you for that. I agree with your last statements, especially about the Clerys' contribution.

Senator Torricelli.

Senator TORRICELLI. Thank you, Mr. Chairman.

Senator SPECTER. Senator Torricelli, are you due at the Government Affairs Committee hearing at this moment for which you and I are 24 minutes late?

Senator TORRICELLI. I am, but missing hearing discussions of President Clinton's fund raising activities in 1996 is something I am prepared to endure. [Laughter.]

Senator SPECTER. In that event, goodbye, everyone. I am not prepared to miss that. Do you think that it is an offset if you and I are both absent?

Senator TORRICELLI. It probably is, yes.

How would you like to proceed, Mr Chairman? I am at your disposal.

Senator SPECTER. Well, I would like to give you 5 minutes to make a presentation. Then I think we are going to move on to the next hearing.

STATEMENT OF SENATOR ROBERT G. TORRICELLI, U.S. SENATOR FROM NEW JERSEY

Senator TORRICELLI. Very good. Mr. Chairman, thank you very much for this unusual opportunity to be with the committee. I am, indeed, very, very grateful.

I do so for what I know is a common interest and from this discussion even more so than I might have suspected. I came here to

discuss your legislation actually, the Campus Security Act, which you successfully authored some time ago. Recognizing that 10 million young Americans every year are making a choice about where to go to college, they make this judgment with their families, and even after the Campus Security Act, in my judgment, for a variety of reasons are still not getting the kind of information they need for their families to make the right choices.

As you know—I can tell from your conversation—the GAO reported that colleges across the Nation simply are not complying with the reporting requirements. The Department of Education is also in my judgment failing to enforce them. From your discussion, that is also clear today. In fact, the Department of Education only recently began a systematic effort to even monitor compliance with these reporting requirements.

My point in being here today is that even after they began monitoring and if they go to compliance, for many American families it still will not be enough. That is why I wanted to bring this to your attention.

Under your legislation, three categories of crime are being reported—should be reported: Murder, rape, aggravated assault. But these represent only 16 percent of the total number of hate crimes that actually occur on college campuses every year. Over 80 percent of these crimes actually take the form of vandalism, harassment, or simple assault. According to the Department of Education's most recent statistics, not one college campus reported a hate crime that resulted in murder in 1992–94, and less than one-half of 1 percent of the colleges reported hate crime that resulted in rape or aggravated assault.

Current law also does not require colleges and universities to report hate crimes against women and the disabled.

Senator SPECTER. Senator Torricelli, I am going to have to interrupt you for a minute. I have to go to the other hearing and I will return here. So, I am going to leave you in Senator Torricelli's hands. When you conclude, we will be in recess and I shall return.

Senator TORRICELLI. For all of you present, this is of course a historic moment. I would be the only Democrat in the 105th Congress to actually be here running my own hearing. [Laughter.]

Consider the legislative possibilities, Mr. Chairman, of what we can do here. [Laughter.]

Senator SPECTER. We are voting right now on the report.

Senator TORRICELLI. So much for my opportunity. [Laughter.]

Senator SPECTER. It was the opportunity that I wanted to avoid, and I do not want Senator Torricelli to miss the vote. He is up for reelection in the year 2002.

We stand in recess for just a few minutes.

[A brief recess was taken.]

Senator SPECTER. The hearing will resume.

Senator Torricelli, you have the floor.

Senator TORRICELLI. Thank you, Mr. Chairman, very much.

Mr. Chairman, as I was suggesting earlier, the problem before us, in addition to the fact that there has been improper reporting and enforcement, is that in my judgment your legislation could go further with a list of crimes that are actually requiring of such reporting.

In the Campus Hate Crimes Right to Know Act of 1997 which I authored, I propose expanding the list by doing two very important things. First, the colleges have to require all hate crimes and not simply murder, rape, or aggravated assault and that the list include gender and disability in the class protected by the reporting requirements.

I noted in offering the act that a recent study by the Maryland Prejudice Institute reported that 25 percent of minority college students attending predominantly white colleges have been victims of hate crimes. The 25 percent is an extraordinary statistic. In 1996 there were 90 incidents of anti-Semitic activity on college campuses, and in 1996 alone, a California university student sent threatening e-mail messages to 60 Asian-Americans.

These kinds of activities sadly continue on American college campuses, and they may not have some of the physical impact of the crimes that are now being required to be reported, but psychologically, the impact on a student's education, in many ways they can be just as devastating.

For all the reasons, Mr. Chairman, that you wanted parents and students to know whether they would be physically endangered if they went to certain campuses—and I suspect you wanted those colleges to have an incentive to protect their students and end this criminal activity by the reporting requirements. I can only suspect that was part of your motivation.

So too I would like to give that same motivation to college administrators. If there are acts of vandalism, if there is graffiti, if there are other hate crime activities that victimize certain racial, religious, or gender groups, I would like parents and students to know about it. The incentive to college administrators to be serious about punishing students who commit these acts and indeed ensuring that they do not continue I believe would be our best weapon in ending this kind of prejudicial activity.

So, Mr. Chairman, I leave it for consideration in hopes that in some way the efforts that you began which I believe with proper enforcement can be so significant on college campuses, I think together we could take this the next step.

I am very grateful for giving me this opportunity today to present my views to you and members of this committee. I thank you.

Senator SPECTER. Thank you very much, Senator Torricelli.

We will be glad to consider the additions which you have suggested. I think we are going to have to revisit the statute in some substantial detail.

My own sense is that the Department of Education has interpreted this statute much too narrowly, unreasonably narrowly, Mr. Longanecker. I do not see how you can separate out sidewalks. If you are talking about a sidewalk that goes, say, from Walnut Street up to College Hall, that actually goes within the university property, and if you saw that, you might not exclude that or you might. I do not know. If you have a sidewalk where the university property is on each side or a street where the university property is on each side, we are not talking about patrolling. We are talking about reporting. That is a big difference.

I understand your apology on the use of the word "idiocy," but I am concerned about your mind set quite frankly. We can clarify it to some extent, but we can never write it so that there will not be any interpretation. When you say your job is to follow the law and not interpret the law, you are not right about that. It is just not possible for Congress to write the law to consider every contingency. Then you do interpret the law because you write regulations, so you are definitely interpreting the law when you write regulations. It is not possible for you to write regulations to consider any contingency.

I think you have to be a lot tougher than you have been, and I will take a look at what your authority is on the fines. We may set up some mandatory requirements. We do that with judges. We can do it with the Department of Education because I think the underreporting is very substantial. I would like to see compliance with this statute before we move on to other statutes. There are people who want to move on to other statutes, and I have concerns.

I think Ms. Goldfarb may be right when she talks about victims who will not want to report crimes if the internal proceedings are going to be reviewed by the public. She may be right about that. I can understand the demand for it in the face of failure to comply in a pretty obvious way. I think there has been failure to comply in a pretty obvious way.

So, we thank you for coming today. It is a complicated subject, and we have got a lot on our agenda, but we will attend to this.

Senator TORRICELLI. Mr. Chairman, could I address Mr. Longanecker for one moment and try to offer some perspective on this problem?

About 25 years ago I was a college student at Rutgers University in New Brunswick and was the victim like Mr. McKee of some campus violence. A few years later, the Governor of New Jersey put me on the board of governors of Rutgers University, and I learned something very startling.

When I decided where to go to college, whether or not my dormitory or the university setting or even the streets around the campus were safe, it never entered into my calculation of where I would attend a school. I assumed all universities were safe. I looked at the departments, the testing, the quality of the faculty, not whether or not I would be safe of life and limb.

When I became a member of the board of governors, I came to understand why that never entered into my calculations. Even a great university like Rutgers University would go to any length after any crime to ensure that it never became public. That is the value of what Senator Specter has done.

When I served on the board of governors, we changed that policy. We ensured that the local police were called every time there was a crime so that it got in the newspapers, and when it did, that university administration became very serious, deadly serious about patrolling, security lights, ensuring that crimes were prosecuted, ensuring that students that committed crimes against other students were removed from the university setting.

Truth and revealing of the facts is the only sure means of enhancing security. That is the value of what Senator Specter has

done and why I share his frustration if the reporting and the enforcement is not taking place.

But I went through this on a personal experience as apparently Mr. McKee did, and to all of us, it is a very important thing to happen. If there is one place in American life we should be able to have some sanctuary where people can be free of the normal life concerns and pursue academic and intellectual pursuits, it is a university setting. Certainly we can secure those few acres of everybody's life to make this right.

Mr. Chairman, thank you for allowing me to be part of this hearing.

CONCLUSION OF HEARING

Senator SPECTER. Thank you, Senator Torricelli. That concludes our hearing. The subcommittee will stand in recess subject to the call of the Chair.

[Whereupon, at 4:47 p.m., Thursday, March 5, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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